

**SELECT COMMITTEE
INTO THE POLICE RAID ON THE *SUNDAY TIMES***

**TRANSCRIPT OF EVIDENCE TAKEN
AT PERTH
MONDAY, 7 JULY 2008**

Members

**Hon George Cash (Chairman)
Hon Adele Farina
Hon Giz Watson**

Hearing commenced at 2.01 pm

LAMPATHAKIS, MR PAUL
Journalist, *Sunday Times*,
Stirling Street,
Perth 6000, sworn and examined:

The CHAIRMAN: On behalf of the committee, I welcome you to the meeting this afternoon. Before we begin, I must ask you to either take the oath or the affirmation.

[Witness took the affirmation.]

The CHAIRMAN: You will have signed a document entitled “Information for Witnesses”. Have you read and understood the document?

Mr Lampathakis: I have, yes.

The CHAIRMAN: Would you be kind enough to introduce the lady sitting to your left?

Mr Lampathakis: Carmel Galati, who is my legal representative.

The CHAIRMAN: Ms Galati, welcome this afternoon. Do you understand the rules of the Legislative Council and that you are here to provide advice to Mr Lampathakis? You are not going to be under oath, so you are not a witness before the committee. You will provide advice to Mr Lampathakis. You are not at liberty to directly answer any particular question; rather, any advice you tender will be to your client, Mr Lampathakis.

Ms Galati: Yes, sir, I understand that.

The CHAIRMAN: These proceedings are being reported by Hansard. A transcript of your evidence will be provided to you. To assist the committee and Hansard, please quote the full title of any document that you refer to during the course of this hearing for the record, and please be aware of the microphones and try to talk into them. Please avoid covering them with papers or making unnecessary noise near them. I remind you that your transcript will become a matter for the public record. If for some reason you wish to make a confidential statement during today’s proceedings, you should request that the evidence be taken in a closed session. If the committee grants your request, any public and media in attendance will be excluded from the hearing. Please note that until such time as the transcript of your public evidence is finalised it should not be made public. I advise you that premature publication or disclosure of public evidence may constitute a contempt of Parliament, and may mean that the material published or disclosed is not subject to parliamentary privilege.

Before I ask you whether you want to make an opening statement, I understand that you are not making an application to have any matter heard in private.

Mr Lampathakis: Yes.

The CHAIRMAN: Later on if you believe that your evidence should be taken in private, you are at liberty to ask that we consider that at any time. The committee will deliberate on your request and either grant or not grant your request. Given that the hearing will be a public session, I ask Mr Driscoll to invite the media into the committee room.

Mr Lampathakis: I have copies of the statement that I want to read out. Shall I distribute them?

The CHAIRMAN: You have tendered a document to the committee, which I understand is, in general terms, your opening statement. That document is exhibit 14A for your records.

Mr Lampathakis: Thank you.

Good afternoon to the members of the committee. Firstly, I would like to say that I respect the committee and its right to investigate the events of 30 April 2008. I want to be as helpful as possible—hence my presence today. However, I will decline to answer any questions that may either directly or indirectly identify the source or sources of the story in question. I will decline for two reasons. Firstly, I do not see those questions being relevant to the committee's terms of reference to inquire into the circumstances surrounding the raid on the *Sunday Times* on 30 April 2008. Secondly, I will decline to answer such questions because I am bound by a code of ethics to maintain the confidentiality of the identity of the source or sources of information relied on for the story.

I believe the raid to be the result of moves by the state government to attack our newspaper and me for a politically damaging news story about the government's intention to spend millions of taxpayers' dollars on advertising to help it get re-elected. The latest incident was the second time this year that the police have been to the *Sunday Times* offices to search for information about the sources of one of my stories at the behest of the state government. In my mind both incidents were aimed at trying to intimidate and harass me for doing my job, which is to communicate to the public on matters that are of significant interest to the public. The previous time related to a story in April in which I revealed that Royal Perth Hospital computers containing patients' personal details were left sitting in an open skip bin near Murray Street, Perth. At the time Attorney General, Jim McGinty, did not speak of upgrading security procedures at the hospital. He instead spoke of the police investigating my role in obtaining the information when allowing such data to be left in the open was obviously a breach of patient confidentiality by RPH.

The latest operation involving 27 police officers blocking exists, searching colleagues' belongings and shifting through my personal documents and emails to find the source of a story that was clearly in the public interest contradicts even the most basic notions of democracy. The raid has brought to the fore issues such as freedom of the press in this state and the necessity for shield laws to enable a journalist to be able to communicate to the public on matters concerning them without fear or favour.

I hope that positive consequences come from the whole affair. I know that I am not the only journalist in WA who has been targeted in recent times for doing his job. I hope that the outcry over the latest incident will serve as a wake-up call for the government about how Western Australians expect our society to function, which is with free speech and information, not repression. Thank you.

[2.10 pm]

The CHAIRMAN: Thank you. Mr Lampathakis, the committee has been directed by the Legislative Council to inquire into and report on all circumstances surrounding the police raid on the *Sunday Times* on 30 April 2008. Your prior or subsequent knowledge, understanding or involvement in any matter relevant to the police raid on the *Sunday Times* on 30 April 2008 is of interest to the committee. Before I put some specific questions to you, it would be helpful for the committee if you were to tell us of your qualifications and your experience as a journalist and the period of time that you have worked with the *Sunday Times*.

Mr Lampathakis: I started reporting back in 1990 as a freelancer. I have been with the *Sunday Times* since about 2004. Previously, I was with *The West Australian* in the '90s.

The CHAIRMAN: Your qualifications?

Mr Lampathakis: Bachelor of Arts, English (Honours).

The CHAIRMAN: Which qualifies you to be a journalist.

Mr Lampathakis: And life experience, of course.

The CHAIRMAN: Of course, yes. Thank you. Mr Lampathakis, I refer to the 10 February article published in the *Sunday Times* at page 3, under the heading “Bid to ‘buy’ Labor win . . . Exclusive By Paul Lampathakis” and I ask: did you author this article?

Mr Lampathakis: I did, Chairman.

The CHAIRMAN: Did you rely on information provided by another person or persons in compiling this article; and, if so, when was this information provided?

Mr Lampathakis: For reasons that I have given in my statement, I decline to answer that question.

The CHAIRMAN: Can I just put it to you? You have raised some issues in your opening statement, but the question I am asking is a question of fact, and the question of fact is: did you rely on information provided by another person or persons in compiling the article?

Mr Lampathakis: Can I have just a moment?

The CHAIRMAN: Of course, and the reason you have got Ms Galati there is to confer, so please confer.

[Conferring with counsel.]

Mr Lampathakis: Sorry for that. Yes, I can say that I did rely on information from a source or sources for the story.

The CHAIRMAN: Thank you. Can you indicate when this information was provided to you?

Mr Lampathakis: In the weeks leading up to the article; I do not know specifically.

The CHAIRMAN: You say “in the weeks leading up to”. The reason I am pursuing it is that I would like to get as close as possible to the time as is reasonable. “In the weeks leading up to” is pretty wide. Can you get a bit more focused than that?

Mr Lampathakis: Just one moment.

The CHAIRMAN: Indeed.

[Conferring with counsel.]

Mr Lampathakis: Thanks.

The CHAIRMAN: Mr Lampathakis?

Mr Lampathakis: Excuse me. I am not meaning to be obstructive. It was quite a busy summer, and really I receive information all the time. I really cannot be more specific than “the weeks leading up”. I am not sure whether it was two weeks, three weeks.

The CHAIRMAN: You have explained a little more the reason for your inability to be specific, and that is helpful to the committee. You have said, Mr Lampathakis, you are not trying to be obstructive to the committee. The committee is also not trying to be obstructive. We are here because we have been directed by the Legislative Council to provide a report on certain matters. We are here to work together, so to speak, to try to get a positive outcome. Mr Lampathakis, can you indicate the nature of the information provided by another person or persons that enabled you to compile the report?

Mr Lampathakis: Do you mind being more specific with that question?

The CHAIRMAN: The nature of the information? I could be more specific by saying: was it in the form of figures that were indicated to you for a particular purpose—the nature of the information?

Mr Lampathakis: Yes, the information that came to me is in the form of these figures that are used in the article.

The CHAIRMAN: Right, and can you tell me: was it by way of verbal information or was it information in writing?

Mr Lampathakis: Unfortunately, for the reasons that I have given in the statement, I decline to answer that question.

The CHAIRMAN: I just pursue that because again we are dealing with matters of fact. I invite you to continually confer with Ms Galati, because we are endeavouring to seek information from you, and it seems to me at the moment we are dealing in fact. I am not asking you to identify the source of your information at this stage. Mr Lampathakis?

Mr Lampathakis: Yes, Ms Galati has —

The CHAIRMAN: Not Ms Galati. Go on.

Mr Lampathakis: I am sorry. Ms Galati—

The CHAIRMAN: You tell me.

Mr Lampathakis: Okay. Basically, my concern was that we were going down the path of actually identifying sources, and I really do not want to go down that path.

The CHAIRMAN: I will put that question aside for the time being and I will continue to ask: can you tell me, Mr Lampathakis, your understanding of the requirements of cabinet confidentiality?

Mr Lampathakis: Could I have a moment?

The CHAIRMAN: Yes.

[Conferring with counsel.]

Mr Lampathakis: As a general comment, my understanding would be that things are discussed within cabinet confidentially and that is the form.

The CHAIRMAN: Are you aware that it can constitute a criminal offence if somebody breaches cabinet confidentiality and discloses without authority information that is said to be confidential?

Mr Lampathakis: Generally speaking, I am aware that is the case, yes.

The CHAIRMAN: Thank you. Mr Lampathakis, can you indicate to the committee what action you took to establish the status of the document or the information that you relied on in your article of 10 February?

Mr Lampathakis: Could I just take a moment?

The CHAIRMAN: Yes. Mr Lampathakis, when you are ready.

Mr Lampathakis: Sure.

[Conferring with counsel.]

Mr Lampathakis: As a general principle, we receive information all the time. Most of the time, I guess we are not aware of whether it is confidential or not. If we are made aware that it is of such a nature, I guess we treat it with more sensitivity and caution than we would otherwise. You get information all the time from a variety of sources and you are working on numerous stories at any one time.

[2.20 pm]

The CHAIRMAN: In this instance, having regard to the information that was provided to you, did you believe there was a need to check the status of that information; that is, to determine whether or not it was confidential information that, if disclosed, could have breached section 81 of the Criminal Code?

Mr Lampathakis: I will just take a moment.

[Conferring with counsel.]

Mr Lampathakis: Again, pertaining to this sort of information, I receive this sort of information all the time. I assessed it as being in the public interest to be put out as a story. I think that that is as far as it went, really.

The CHAIRMAN: Therefore, is it fair to say that you did not establish the status of the document; that is, to determine whether it was confidential information or not?

Mr Lampathakis: I would rather not answer that question because I do not want to go down the path of disclosing the sources etc.

The CHAIRMAN: Mr Lampathakis, I am not seeking for you to disclose the source. I am asking whether, as a matter of fact, you believed it was necessary to establish that the information provided was confidential information or not?

Mr Lampathakis: Excuse me for a moment.

[Conferring with counsel.]

Mr Lampathakis: Sorry to take up so much time, Mr Chairman.

The CHAIRMAN: No. Let me say this: it is important for you, if you want to, to confer with your legal representative. That is why Ms Galati has been admitted into the committee room today as your legal representative. If you feel the need to seek advice, you are entitled to seek that advice.

Mr Lampathakis: I was not aware that the information was of a confidential nature, but I felt that it was important enough to put out there.

The CHAIRMAN: Thank you. Can you tell me what action you took to establish the veracity of the information? Let me rephrase that. Did you take any specific action to establish the veracity of the information?

Mr Lampathakis: I will not be a moment.

[Conferring with counsel.]

Mr Lampathakis: Being an investigative reporter, I guess that I ensure the sources I use are good.

The CHAIRMAN: Can you elaborate on what that means? Good for what?

Mr Lampathakis: Reliable.

The CHAIRMAN: Reliable in the information they provided to you — is that a fair representation of what you are saying?

Mr Lampathakis: Yes, Mr Chairman.

The CHAIRMAN: Do you believe that to be the case in this instance?

Mr Lampathakis: That the information was accurate? Yes. I would not put a story out with something that I believed was —

Hon ADELE FARINA: Can I just ask something?

The CHAIRMAN: Hon Adele Farina.

Hon ADELE FARINA: Thank you, Mr Chairman. How do you go about ensuring that your sources are reliable?

Mr Lampathakis: I will just take a moment.

[Conferring with counsel.]

Mr Lampathakis: Over years of operating as a journalist, you make assessments on information and sources and you have a sense of what is and what is not accurate.

The CHAIRMAN: Mr Lampathakis, given the information that was provided to you, did you form the view that there had been an unauthorised disclosure of confidential documents, having regard to the substance of the information that was provided to you?

Mr Lampathakis: I will just take a moment.

[Conferring with counsel.]

Mr Lampathakis: In the matter of whether there was anything unlawful in publishing the information, not to my knowledge. Not at the time, no.

The CHAIRMAN: Can I just clarify what you have said? I asked if you had formed the view that there had been an unauthorised disclosure of confidential documents, having regard to the substance of the information provided to you. Can you give me a more direct reply? I was a little uncertain of what you meant in your first reply.

Mr Lampathakis: Once again, I did not wish to answer anything that pertains to the source material, be it documents or conversations etc. I guess that was my problem with the question. Did I feel that something unlawful had taken place? No.

The CHAIRMAN: Mr Lampathakis, you have acknowledged earlier that you are aware that it is a criminal offence for a public officer to disclose confidential documents without proper authorisation. Are you also aware that it can constitute the offence of misconduct under the Public Sector Management Act to disclose confidential information without proper authorisation?

Mr Lampathakis: Yes.

The CHAIRMAN: You are aware. Thank you.

Moving to another area, did the police contact you following the publication of the article in the *Sunday Times* on 10 February at page 3 under the banner headline “Bid to ‘buy’ Labor win: exclusive Paul Lampathakis”?

Mr Lampathakis: They did subsequently contact me on two occasions.

The CHAIRMAN: Can you indicate which police officer or police officers contacted you and on which dates?

Mr Lampathakis: On the day of the actual raid, an officer Mansell or Detective Mansell.

The CHAIRMAN: 30 March 2008?

Mr Lampathakis: 30 April.

The CHAIRMAN: Yes. A Detective Mansell —

Mr Lampathakis: Yes. Contacted me.

The CHAIRMAN: How did she contact you?

Mr Lampathakis: She phoned me.

The CHAIRMAN: Do you know what time during the day on 30 April she phoned you, approximately?

Mr Lampathakis: Mid-afternoon, somewhere.

The CHAIRMAN: What did Detective Mansell want to talk to you about?

Mr Lampathakis: She told me that the police were at the office, that they were going to conduct a search of my desk and would I like to come along and assist with that search.

The CHAIRMAN: And your response to the police at the time?

Mr Lampathakis: I told them I was in the middle of an interview, which I was, and I was not anywhere near the office and I would not be coming in.

The CHAIRMAN: You declined.

Mr Lampathakis: Yes.

The CHAIRMAN: I see. Apart from telling you the police were on the premises of the *Sunday Times*, did she explain the reason why they were on the premises of the *Sunday Times* at the time? When I say “she”, I mean did Detective Mansell explain the reasons for the police being on the premises at the *Sunday Times* at that time?

Mr Lampathakis: Because so much has gone on since, I cannot really recall. I would assume she would have.

The CHAIRMAN: Can the committee assume that you were aware that the police were on the premises of the *Sunday Times* for the purpose of attempting to seek some documentation in respect to your story?

[2.30 pm]

Mr Lampathakis: That would be a fair assumption.

The CHAIRMAN: You believed that to be the case at the time?

Mr Lampathakis: Yes.

The CHAIRMAN: You said there were two contacts, one by Detective Mansell on 30 April. When was the other?

Mr Lampathakis: The second one, I think, was perhaps last month, June or May. I received an email from the police. I think it was the same officer. It was basically an invitation to go—well, I was not compelled to go and see them.

The CHAIRMAN: An invitation to?

Mr Lampathakis: To come in for an interview.

The CHAIRMAN: To give evidence, is that it, to the police or act as a witness to the police?

Mr Lampathakis: That is interesting. It was just to go in and actually talk about the issue. I think there was some mention of returning property to me as well, so it was quite a relatively informal email.

The CHAIRMAN: What was your response to the email?

Mr Lampathakis: I took legal advice and declined.

The CHAIRMAN: Thank you.

The article was published on 10 February and the police raided the *Sunday Times* on 30 April. Who did you speak to after the police had raided the *Sunday Times* in respect of the issues at hand?

Mr Lampathakis: Our lawyers naturally; management—editors etc, chief of staff—just the normal chain of command in a newspaper.

The CHAIRMAN: Did you make records or notes in respect of the circumstances surrounding the raid on the *Sunday Times*, following the raid, that is?

Mr Lampathakis: I kept some sort of archive of what had happened and the various reports on it.

The CHAIRMAN: So you did keep some notes?

Mr Lampathakis: Yes.

The CHAIRMAN: Are you able to provide those notes to the committee, Mr Lampathakis?

Mr Lampathakis: They were not really notes; it was more a collection of press clippings and anything I might have said or others have said about the raid—sort of transcripts, more so, from newspapers.

The CHAIRMAN: In the public domain?

Mr Lampathakis: Yes.

The CHAIRMAN: Are you able to provide a copy of those to the committee?

Mr Lampathakis: I would imagine so, yes.

The CHAIRMAN: Rather than imagine, can you consult with Ms Galati?

Mr Lampathakis: Sorry; I will be specific: yes. I cannot do it immediately.

The CHAIRMAN: No. I wanted you to say yes because I wanted to say to you, would you please provide those within the next seven days?

Mr Lampathakis: Of course.

The CHAIRMAN: Thank you. What is the *Sunday Times*' policy on retaining records to protect the *Sunday Times* and/or its officers from possible future actions relating to stories that have been published, for instance, defamation actions?

Mr Lampathakis: You normally have to keep notes of interviews, documentation pertaining to a story for a number of years. I keep things that way.

The CHAIRMAN: Does that documentation include source documents relating to people you have spoken to or received information from and follow-up material so to speak?

Mr Lampathakis: In a general sense, it is more sort of notes of interviews—notebooks etc—that you keep.

The CHAIRMAN: Okay. Is that the *Sunday Times*' policy or is that your personal policy?

Mr Lampathakis: I think it is a policy that is across all newspapers and other media.

The CHAIRMAN: Is it fair to say that it is common practice for journalists to retain notebooks and other evidence of information that has been provided to them?

Mr Lampathakis: Yes.

The CHAIRMAN: Mr Lampathakis, have you previously had occasion to knowingly use leaked confidential documents or material that has been disclosed to you, with your knowledge, without proper authorisation in support of a story that you have written?

Mr Lampathakis: Do you mind rephrasing that question?

The CHAIRMAN: Yes; that is, I do not mind rephrasing it. Have you previously had occasion to knowingly use leaked confidential documents or material that you have known to have been disclosed without proper authorisation in support of a story that you have written?

Mr Lampathakis: Can I just take a moment?

The CHAIRMAN: Yes.

[Conferring with counsel.]

Mr Lampathakis: The question suggests that I have broken the law with stories that I have written. That was the inference I was concerned about. I do not believe I have broken the law either on this occasion or on previous occasions.

The CHAIRMAN: Let me make it clear that if you inferred that from the question, that was not the intention. There is no suggestion by this committee that you have broken the law. The question related to whether, in your journalistic career, you have knowingly used leaked, confidential documents or material that had been disclosed, without proper authorisation, in support of a story that you have written.

Mr Lampathakis: I will take one more moment?

The CHAIRMAN: Yes.

[Conferring with counsel.]

Mr Lampathakis: I guess, not to my knowledge.

The CHAIRMAN: In respect of the retention of records that we talked of earlier, you indicated that journalists keep source documents and other notes that they make in respect of information that is provided to them in the compilation of stories. Can you indicate whether those documents are retained at the *Sunday Times*?

Mr Lampathakis: Generally, any notes or note pads etc we have, or material pertaining to work, we leave at work, yes.

The CHAIRMAN: Are you indicating that they are the property of the journalist and, in your case, you leave them at work?

Mr Lampathakis: Can I just take one moment?

The CHAIRMAN: Yes.

[Conferring with counsel.]

Mr Lampathakis: I will clarify something first: when you are dealing with confidential sources, you do not tend to have a notebook that says that source A said this, this and this. It is not standard practice to do that sort of thing. While you have transcripts—you might keep notes of standard interviews because it is procedure—when you are dealing with confidential sources, you would not necessarily have a notebook that says source B says this or source A says this.

The CHAIRMAN: In the retention of those documents, whatever state they might be kept in, in your case you would keep them at the *Sunday Times*, is that the case?

Mr Lampathakis: As a general rule, you would have whatever you were using for work at the office, yes.

The CHAIRMAN: Thank you. You said as a general rule. Outside the general rule, where would they be kept?

Mr Lampathakis: I will rephrase that. Whatever you are dealing with at work, you keep it at work.

The CHAIRMAN: Were you at the premises of the *Sunday Times* at approximately 2.00 pm on Wednesday, 30 April 2008? That is approximately the time at which the police commenced their raid on the *Sunday Times*.

[2.40 pm]

Mr Lampathakis: I was actually not on the premises; I was out, interviewing someone.

The CHAIRMAN: Can you indicate, if you had been at the premises on that day—and if the answer to that is yes—approximately what time you left the premises to conduct the interview, or whatever business you went out to attend to?

Mr Lampathakis: Yes, I got there about 8.30 or nine o'clock on that day, and went out probably around 11.

The CHAIRMAN: Thank you. And not returning before the police arrived at the *Sunday Times* building at approximately 2.00 pm?

Mr Lampathakis: No, no.

The CHAIRMAN: Did you return to the *Sunday Times* building at all on 30 April 2008?

Mr Lampathakis: Some time sort of very late afternoon—probably seven o'clock or something like that.

The CHAIRMAN: Thank you. Where were you in the meantime—from 11 o'clock to seven o'clock?

Mr Lampathakis: Tuesdays and Wednesdays, with a weekly paper, you are generally news gathering, so you are meeting people, you are having a cup of coffee or a bite and doing interviews. You are out and about talking to people, so it is pretty standard to be out of the office.

The CHAIRMAN: Is it fair to say within the metropolitan area?

Mr Lampathakis: Yes.

The CHAIRMAN: Thank you. The committee asks if you are aware of the identity of the person or persons who provided you with the confidential information that you used in your 10 February article published in the *Sunday Times* at page 3, under the heading "Bid to 'buy' Labor win". Can you indicate if you are aware of that identity of that person or persons?

Mr Lampathakis: Can I just take one moment?

The CHAIRMAN: Yes, Mr Lampathakis.

[Conferring with counsel.]

Mr Lampathakis: I was aware of the identity of the source or sources.

The CHAIRMAN: Yes. If so, can you advise the committee of the identity of that person or persons?

Mr Lampathakis: As I have said before, for the reasons that I have given in my statement, I decline to answer that question.

The CHAIRMAN: Will you just expand again, so that the committee is aware, the reason that you are refusing to answer the question, so that we are very clear in our minds—and you are clear in your mind—about the grounds that you are refusing to answer?

Mr Lampathakis: As I said, the two previous points: I do not think it fits within the terms of reference of the circumstances surrounding the raid; and, secondly, there is the journalists' code of ethics, whereby you maintain the confidentiality of the source.

The CHAIRMAN: Mr Lampathakis, just in respect to the issue relating to the terms of reference, can you indicate your reasoning why the question does not fall within the terms of reference of the committee?

Mr Lampathakis: Sure. I will just take one moment

The CHAIRMAN: Yes, yes.

[Conferring with counsel.]

Mr Lampathakis: My understanding was that the terms of reference of this particular committee would be to, I guess, establish whether there was a misuse of power in terms of this raid taking place. I do not believe that questions pertaining to source or sources are relevant to those terms of reference.

The CHAIRMAN: Mr Lampathakis, you have refused to answer a question of the committee, so that requires me to have the committee go into private session so we can deliberate on this matter—we will obviously come back to you. If you would be good enough, with Ms Galati, just to step outside, and if the other members of the media and interested persons would step outside, too, we will be with you within a short time. Thank you.

Proceedings suspended from 2.44 to 2.49 pm

The CHAIRMAN: Thank you, Mr Lampathakis. Mr Lampathakis, the committee has carefully considered this matter and has formed the view that the information sought by the question is

relevant to its terms of reference. I am going to ask you the question again, but in so doing, ask if you wish to go into private session in respect to answering the question?

Mr Lampathakis: No.

The CHAIRMAN: I therefore ask the question again: can you advise the committee of the identity of the person or persons who provided you with the information?

Mr Lampathakis: Yes, as I have said, for the same reasons I have given in the statement, I decline to answer that question, Chairman.

The CHAIRMAN: Mr Lampathakis, I am required by our procedures to advise you that if you refuse to answer the question, that the committee may report this refusal to the Legislative Council, and that the Legislative Council may order you to answer the question. Under section 7 of the Parliamentary Privileges Act 1891, a failure to obey an order of the house is a contempt punishable by a fine, and, in the absence of payment, jail. The failure to answer a question is also a simple offence under section 59(2) of the Criminal Code, which, if proven, carries a penalty of two years' imprisonment and a fine of \$24 000. Accordingly, I put the question to you again: will you advise the committee of the identity of the person or persons who provided you with the information that was the subject of your 10 February article?

[2.50 pm]

Mr Lampathakis: Once again, unfortunately I have to decline to answer that question.

The CHAIRMAN: You will understand that this committee may report that matter to the Legislative Council.

Mr Lampathakis: Yes, Chairman.

The CHAIRMAN: Mr Lampathakis, have you got any recommendations, or can you make any suggestions to the committee, to assist in improving and reporting, and, indeed, perhaps even with the investigation, of the unauthorised disclosure of confidential documents or information?

Mr Lampathakis: Can I take one moment?

The CHAIRMAN: Yes. Can I just indicate to you the purpose of my question. I am inviting you to make some comment on whether you believe that there are matters that should be taken up to improve the reporting, investigation etc of the release of confidential information on an unauthorised basis.

Mr Lampathakis: Is that something that I can be given some time to consider?

The CHAIRMAN: Yes. If you believe —

Mr Lampathakis: We can make a submission.

The CHAIRMAN: I am inviting you to come back to the committee if you have got some positive comments to make in that regard. There is no obligation on you to come back to the committee if you do not have any comments to make, so to speak, but most of the witnesses that have come before the committee have been given this opportunity and some have taken it up. We are pleased to receive any advice that you may wish to tender to the committee.

Mr Lampathakis: Thank you. If I may ask for some time period?

The CHAIRMAN: Yes. Do you want me to tell you the time? If you would come back within, say, 14 days—is that adequate time for you to think about it?

Mr Lampathakis: That would be sufficient, and perhaps with the other particular submission, the issue of archival material, that you are asking for.

The CHAIRMAN: I had hoped that that would be available within seven days.

Mr Lampathakis: I would do both within the seven days, if I am going to take up the second option.

The CHAIRMAN: The other thing is, Mr Lampathakis, so the committee is seen to be cooperating with you, as you have cooperated with the committee, if there is some reason for you not being able to meet the time line, if you speak to Mr Driscoll or Mr Grant, then I am sure they will advise you of another time line that we can mutually agree on. We are keen to move the committee's investigation along.

Mr Lampathakis: Thank you, Chairman.

The CHAIRMAN: Right, Mr Lampathakis; do you have any other matter that you wish to raise in respect to the committee's inquiry?

Mr Lampathakis: Can I just take a moment?

[Conferring with counsel.]

Mr Lampathakis: I think, from my side of things, that would be fine.

The CHAIRMAN: Hon Giz Watson has got some questions she would like to put to you.

Hon GIZ WATSON: I noted in your opening submission, and you also provided it in writing here, that you have said —

I know that I am not the only journalist in WA who has been targeted in recent times for doing his job.

Can you elaborate on that at all, or would you like to elaborate on that at all?

Mr Lampathakis: I will do that briefly. Obviously journalists from *The West Australian* newspaper have also had visits from police in the past regarding information, and I just felt that perhaps things are coming to a bit of a head in WA in terms of what it is we can and cannot report on.

Hon GIZ WATSON: Were these other cases or matters that related to the police, or were they also matters that related to the Corruption and Crime Commission?

Mr Lampathakis: My understanding was one of the matters related to Fiona Stanley Hospital; I think it was a budget blow-out that was reported on.

Hon GIZ WATSON: Perhaps I should clarify: in terms of the investigation that was being carried out, was it being carried out by the police or the Corruption and Crime Commission, or both, if you are aware?

Mr Lampathakis: I think that the police have attended and perhaps there has been—there has been CCC involvement as well, that I am aware of. That is my understanding.

Hon GIZ WATSON: My second question was in regards to your making mention of a necessity for shield laws. Do you have any further comments or information or recommendations, or a submission for that matter, you would like to make in that regard, either now or within the two-week period—whichever suits?

Mr Lampathakis: I can speak now on that. The *Sunday Times* as an organisation, and myself as an individual, are extremely interested in these types of laws being enacted. If we do not have them, when there is any sense of abuse of power or wrongdoing in government or a corporation, if we do not have these sorts of laws and power and we have the sorts of things that have been happening recently, you will find individuals will not feel comfortable to speak about wrongdoing. People will clam up and we will not have these sorts of things exposed. I think there is an importance to ensure that sources feel comfortable enough to come out and speak.

Hon ADELE FARINA: I have a few more questions. Again referring to your opening statement, you say that one of the reasons why you are going to decline to answer any questions in relation to the identity of the source is because you are bound by a code of ethics to maintain confidentiality of

the identity of the source. Public servants also have a code of conduct where they are required not to disclose, without authorisation, confidential information. Do you have a lesser regard for that code?

Mr Lampathakis: Can I just take a moment?

[Conferring with counsel.]

Mr Lampathakis: It is not a question of me having a lesser regard for that particular code of conduct. I am bound by my own code of conduct and I feel compelled, when something needs to be published in the public interest, that I will, and I will protect my sources when I do that.

Hon ADELE FARINA: Also in your opening statement you refer to the latest incident as being the second time that police have come to the *Sunday Times* searching for information about the sources of one of your stories, and the earlier time was the Royal Perth Hospital computers.

Mr Lampathakis: Uh-huh.

Hon ADELE FARINA: Is it your evidence that the police executed a search warrant on that occasion?

Mr Lampathakis: Excuse me.

[Conferring with counsel.]

[3.00 pm]

Mr Lampathakis: My understanding is that they made inquiries. Two officers attended. I was not there; I was out doing my job, as usual. They also asked for any information pertaining to that story. It was a completely different scenario.

Hon ADELE FARINA: Okay; so it was not an execution of a search warrant?

Mr Lampathakis: I do not think so, no.

The CHAIRMAN: Would you be good enough to check for us? If you are mistaken, and it was the execution of a search warrant, would you please let us know?

Mr Lampathakis: Of course.

Hon ADELE FARINA: You then go on to say that you are not the only journalist who has been targeted in WA in recent times. I am a bit interested in just exploring the word “targeted” a bit more and why you used that particular word. To the best of my understanding and from the evidence that has been presented to the committee, you were not a person of interest to the police. The police simply wanted to talk to you as a possible witness. I am just a bit interested in your use of the word “targeted”.

Mr Lampathakis: It is never a comfortable situation to have the police come to your office and take apart your desk and your documents and take away material from your work space. It was the second time in three or four weeks, I think—the second time in a month—that the police had attended looking for information on sources. That certainly gave me the impression that I was being targeted, yes.

Hon ADELE FARINA: Although, in the first instance, they were simply making inquiries; they were not executing a search warrant. They did not actually search your desk and your personal belongings?

Mr Lampathakis: In the first instance, even though they did not execute a search warrant, there were accusations—allegations—of theft. Certainly, it was as unpleasant as the second raid for me—or the second visit from the police, if I might correct that. In the first instance, there were these sorts of allegations—the investigation of theft pertaining specifically to me —

Hon ADELE FARINA: And that theft being?

Mr Lampathakis: Of the relevant computers that were on Royal Perth Hospital grounds. They were completely unfounded allegations that were refuted at the time and actually immediately, but, nonetheless, these were the sorts of allegations that were floating around when the police arrived. That was not a comfortable situation. The second time, as I said, they took my desk apart. Under those circumstances, you would feel a little targeted.

Hon ADELE FARINA: When you say that they took your desk apart, you are not actually suggesting that they disassembled your desk; you are just suggesting that they searched through your belongings on your desk?

Mr Lampathakis: They read every scrap of paper. There is video footage of them actually going through every scrap of paper. The raid lasted for something like four hours. It was not just a little sift through paper; they went through everything.

Hon ADELE FARINA: And that did not occur the first time?

Mr Lampathakis: No.

Hon ADELE FARINA: Did they take the Royal Perth Hospital computer on that first instance? That was the reason for the search—to obtain the computer?

Mr Lampathakis: Yes, they were interested in obtaining any sort of evidence pertaining to those allegations. I will just take a moment.

Hon ADELE FARINA: Sure.

Mr Lampathakis: On the day they did not go away with something. We are talking about the first instance that they attended the office. Subsequently, they were provided with some information regarding the computers.

Hon ADELE FARINA: However, you still have the computer in your possession?

Mr Lampathakis: No.

Hon ADELE FARINA: The police have it?

Mr Lampathakis: They have hard drives.

Hon ADELE FARINA: I do not know enough about computers to know what a hard drive is. I have a few more questions. Do you think that journalists are above the law?

Mr Lampathakis: Certainly not.

Hon ADELE FARINA: Do you think that you are above the law?

Mr Lampathakis: Certainly not.

Hon ADELE FARINA: Do you think that your source is above the law?

Mr Lampathakis: Certainly not.

Hon ADELE FARINA: Your source had the opportunity to avail himself or herself of the protections of the Public Interest Disclosure Act, which is a whistleblowers act, yet chose not to. On that basis, why do you think that your source is entitled to your protection, given that the source has a code of conduct that requires him or her not to disclose confidential information without the authority to do so?

Mr Lampathakis: I will just take one moment.

Hon ADELE FARINA: Sure.

[Conferring with counsel.]

Mr Lampathakis: I guess the source or sources in such a situation would have to feel confident of availing themselves of the relevant legislation; that they would receive the protections under that legislation. As far as I am concerned, when I take someone into confidence, I give a commitment

that I will protect the identity of the source and there is no question about that ever. It is not something that I contemplate further.

Hon ADELE FARINA: If your source told you that he or she was going to go out and commit murder the following day—he or she was going to murder someone—you would maintain that confidentiality as well?

Mr Lampathakis: It is a completely different situation.

Hon ADELE FARINA: Is it? Why?

Mr Lampathakis: We are talking about the commissioning of a horrible crime.

Hon ADELE FARINA: The unauthorised disclosure of confidential information or secret information is the commissioning of an offence under the Criminal Code. You do not see that with the same gravity?

Mr Lampathakis: As murder?

Hon ADELE FARINA: As an offence. You referred to murder as an offence. I am referring to this as an offence as well.

Mr Lampathakis: I will take one moment.

[Conferring with counsel.]

Mr Lampathakis: I guess, first of all, in this situation I was not aware of whether or not the source or sources was or were committing offences, so I cannot really speak to make that sort of comparison. I do not set out to break the law when I do stories, flat.

Hon ADELE FARINA: No-one is suggesting that you did.

Mr Lampathakis: I know, but we are going down that path. When I do something, I am well aware of keeping within both the parameters of ethics and legal parameters. That is my intention whenever I operate in journalism.

The CHAIRMAN: Mr Lampathakis, thank you for attending today. We appreciate the evidence that you have given to the committee; it has been very helpful. Within a reasonably short time, you will receive a transcript of the copy of your evidence for any corrections that you may find necessary. That is to be returned to the committee within the number of days that are specified on the document that is sent to you. As the committee has no further questions at this stage, thanks once again for your evidence. When the committee has the opportunity of reading your transcript, should it require some further clarification or other issues develop, obviously we will contact your office if there is a need to ask you to return to clarify something. Thank you very much for your attendance today.

Mr Lampathakis: Thank you, Chairman. Thank you, committee.

The CHAIRMAN: Thank you, Ms Galati, for your attendance.

Hearing concluded at 3.09 pm