



PROCEDURE AND PRIVILEGES COMMITTEE

REPORT No. 1

REPORT ON PERSONS REFERRED TO
IN THE LEGISLATIVE ASSEMBLY

MR MALCOLM SHERVILL
MR DAVID CAPORN

Laid on the Table of the Legislative Assembly
9 March 2006

REPORT

The Speaker of the Legislative Assembly referred to the Procedure and Privileges Committee a letter from Mr Malcolm Shervill and Mr David Caporn seeking to use Standing Order 114 to respond to comments made on 24 November 2005 by the Member for Mindarie, Mr John Quigley, MLA.

The Committee has agreed to the attached response proposed by Messrs Shervill and Caporn.

In accordance with Standing Order 114 the Committee has not considered or judged the truth of any statements made in the Legislative Assembly or in the submission.

Recommendation

Your Committee recommends –

That a response by Mr Malcolm Shervill and Mr David Caporn in the terms specified in the Appendix to this report, be incorporated in *Hansard*.

HON. FRED RIEBELING, MLA
CHAIRMAN TO THE COMMITTEE
9 March 2006

APPENDIX

Response by Mr Malcolm Shervill and Mr David Caphorn
Agreed to by Messrs Shervill and the Procedure and Privileges Committee
pursuant to Standing Order 114

In the speech to the Legislative Assembly on 24 November 2005, Detective Sergeant Shervill was referred to as the 'supervising officer' and Detective Sergeant Caporn was referred to as the 'principal investigator' in the investigation of the homicide of Pamela Lawrence in Mosman Park in 1994. The only other police officers named were described as assisting Messrs Shervill and Caporn. This investigation culminated in Andrew Mark Mallard being charged with wilful murder in 1994.

The following comments made in the speech, in our opinion, adversely refer to us: (ref: Hansard pp 7756-7760.)

- They (the Chief Justice and Acting Chief Justice of the Supreme Court of Western Australia) were led astray by the suppression of evidence the police had. The police must have known - I say the police did know - that if the evidence went before the court, there was a real chance that the prosecution case would fail.
- If anything in the brief did not fit with their theory that Mallard was the murderer, they simply went back to witnesses and got them to change their statements.
- They (the Chief Justice and Acting Chief Justice of the Supreme Court of Western Australia) were not to know that the police view of the Acting Chief Justice of Western Australia and the police view of the Supreme Court of Western Australia was that they could not be trusted with the truth. That was the police view.
- It is clear from what the High Court said and what has actually happened, that the police hijacked the course of justice and repeatedly deceived the judges of the Supreme Court into thinking that they were getting a full and fair view of all the available evidence, which most certainly they were not.
- Even if there has not been by someone, by persons unnamed, an attempt to pervert the course of justice, there certainly has been concerted course of action over many months to deceive the Supreme Court.
- The police did not want the truth to come out.
- However, a serious crime has been committed; and if a serious crime has not been committed, at least serious misconduct has happened, with both police and prosecutors actively misleading the Supreme Court on a major matter by suppressing evidence.
- However, as I have pointed out, the Supreme Court judges were hopelessly misled by the police and prosecution service, which suppressed evidence.

In relation to the aforementioned comments, there is no evidence to support them.

Furthermore, neither the Court of Criminal Appeal of Western Australia nor the High Court of Australia made any findings that support the aforementioned comments.

These comments were the subject of intensive media reporting and adversely affected Assistant Commissioner Malcolm Shervill and Assistant Commissioner David Caporn both personally and professionally.

Name of the member of Parliament who made the adverse reference

Member for Mindarie, Mr John Quigley.

Date on which the adverse reference occurred

24 November 2005 (commencing at 3.02pm)

Yours sincerely

MW SHERVILL

DJ CAPORN

28 December 2005