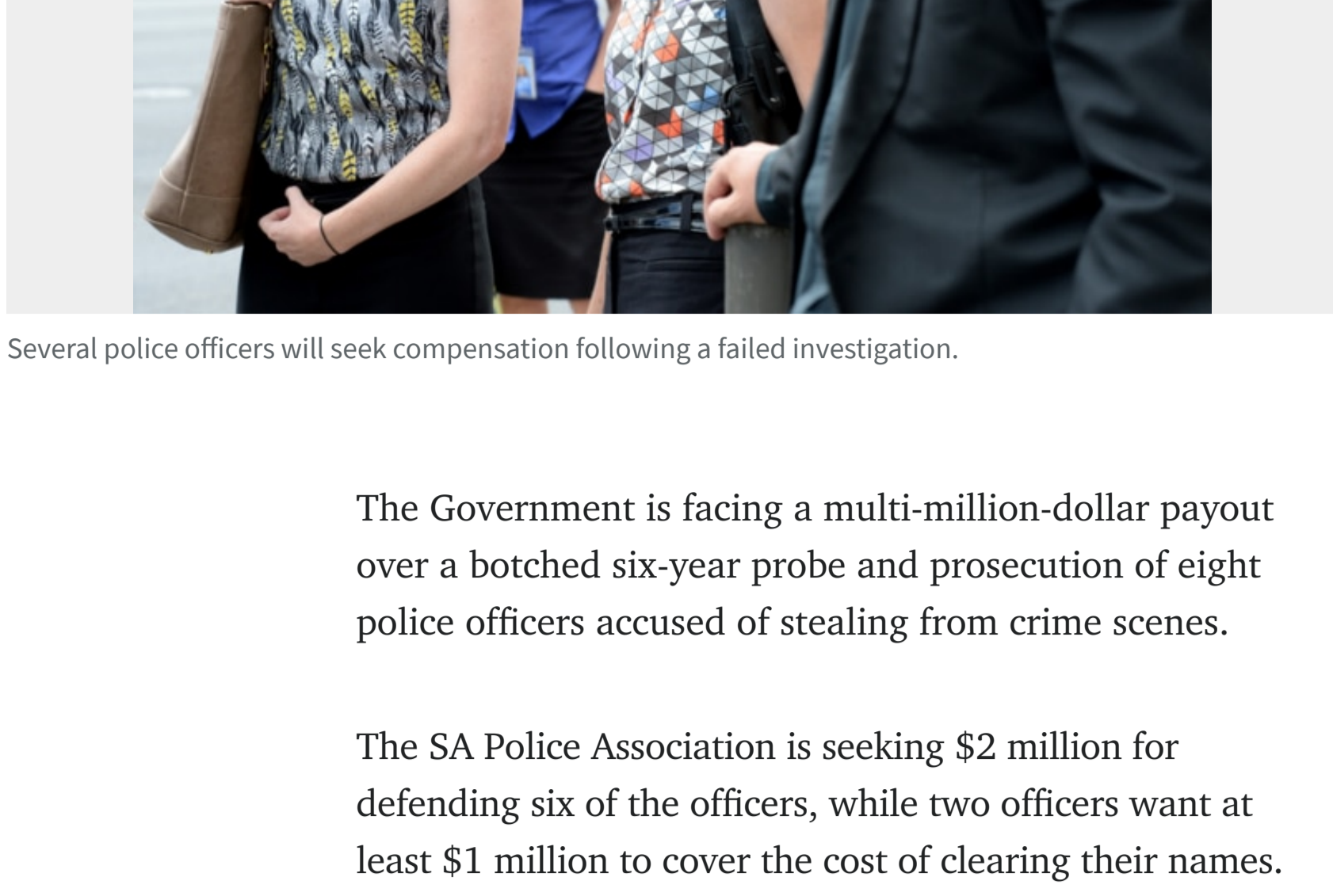


True Crime Australia > Police & Courts

Police union seeks legal costs payout over cleared officers

A failed ICAC inquiry into eight SA police officers could see taxpayers reimbursing more than \$3 million they spent clearing their names in the Supreme Court.

Exclusive – Nigel Hunt
 March 12, 2020 – 10:30PM The Advertiser



Several police officers will seek compensation following a failed investigation.

The Government is facing a multi-million-dollar payout over a botched six-year probe and prosecution of eight police officers accused of stealing from crime scenes.

The SA Police Association is seeking \$2 million for defending six of the officers, while two officers want at least \$1 million to cover the cost of clearing their names.

In all cases, the eight officers were either acquitted in the Supreme Court or had charges of public office abuse and aggravated theft withdrawn.

It was a result of deficiencies in the evidence and flaws in the investigation and prosecution processes, which were uncovered by their lawyers.

The joint investigation – dubbed Operation Bandicoot – was conducted by Independent Commissioner Against Corruption Bruce Lander QC and SAPOL's Anti-Corruption Branch after a whistleblower wrongly alleged officers from the Sturt Local Service Area Operation Mantle drug investigation team were stealing from crime scenes.

Besides the \$3 million spent on defence lawyers, the botched investigation and prosecution is likely to have cost many millions of dollars over the past six years.

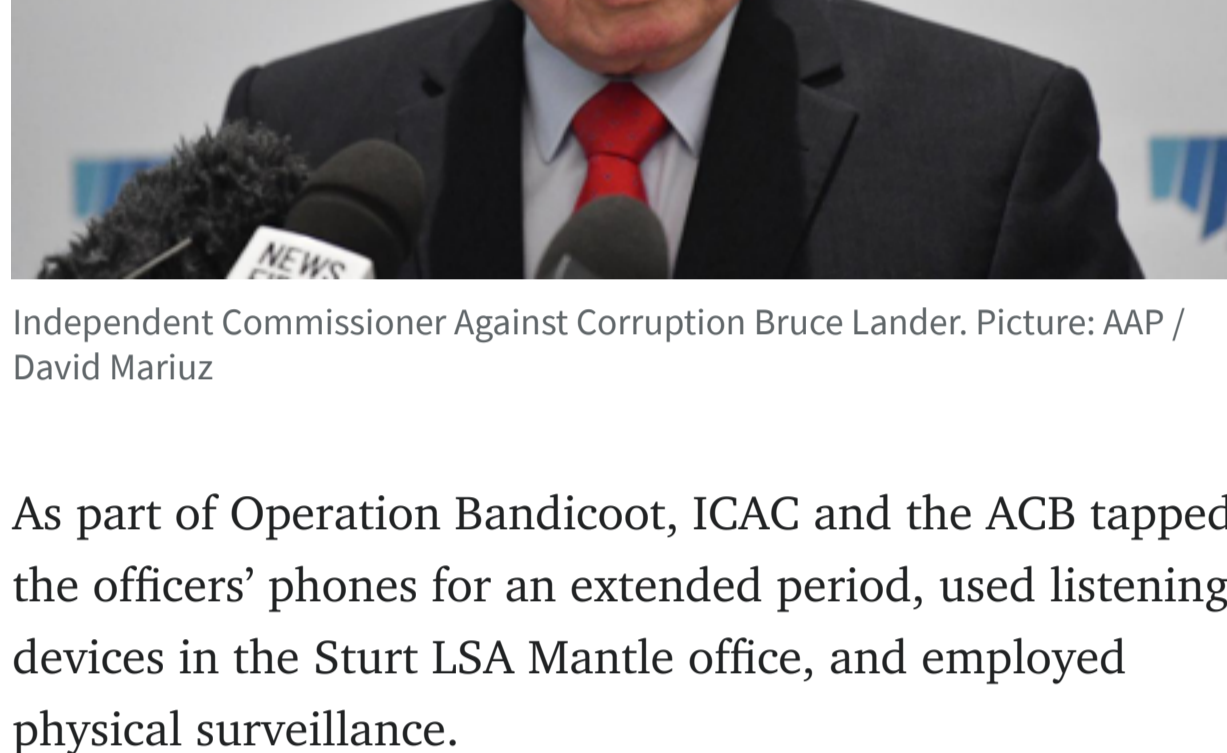
The Advertiser has obtained a confidential, 34-page report detailing the flawed probe and prosecution process, compiled as part of the claim to have the officers' legal fees reimbursed under a binding legal bulletin clause for State Government employees.

The document, sent to the Crown Solicitor's Office litigation section by association president Mark Carroll, details several errors in process made by ICAC and ACB detectives that came to light in the Supreme Court and were the subject of adverse rulings by Justice David Lovell. "In short, the investigation, pre-trial process and even the trials were tainted by conduct that PASA and our members find concerning," Mr Carroll states in the letter of claim.

"Further, the case was instituted on a premise that assumed illegality rather than looking as to whether the evidence proved it. In those circumstances, the case was always bound to fail.

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"PASA and our members should not, with respect, be required to absorb the costs of funding a defence of members who were charged on the most tenuous of bases, arrested before the evidence was properly considered, and subject to the most prejudicial kind of treatment by the ICAC and then Commissioner of Police when each of them held a press conference to denounce the accused on the day of their arrest while they were still presumed innocent."



Independent Commissioner Against Corruption Bruce Lander. Picture: AAP / David Mariuz

As part of Operation Bandicoot, ICAC and the ACB tapped the officers' phones for an extended period, used listening devices in the Sturt LSA Mantle office, and employed physical surveillance.

It also included two fake undercover operations in which various items, cash and drugs were deliberately planted in cannabis grow houses.

All cash and drugs from the two fake crime scenes were properly booked in, but several items seized were stored in the Mantle office and not booked in as per general orders. In the document, Mr Carroll details one significant incident of nondisclosure involving an internal audit of the Sturt LSA property section at Sturt police station.

The audit was ordered several days after the arrests in October 2014.

The audit produced a 113-page report that contained 80 recommendations concerning property handling and procedures. But, significantly, it uncovered widespread incidents of breaches of general orders and widespread noncompliance of general orders related to property management "in many cases worse than identified in Sturt Mantle".

"The report was highly relevant – indeed, integral – to the proceedings, but was not voluntarily disclosed," Mr Carroll states.

"The report notes, in the conclusion, that the findings had been brought to the attention of ACB and that ACB would independently address a number of findings made by the audit team, meaning ACB were clearly aware of the report and were thus required to disclose it to Prosecution, pursuant to Section 10A of the Director of Public Prosecutions Act 1991."

The report outlines another significant example of nondisclosure of vital evidence in which video and audio footage taken at a faked crime scene at which ACB detectives are seizing items.

The video was inadvertently obtained when an ICAC employee provided a defence lawyer with a copy of electronic exhibits.

"This evidence was extremely important to the defence case because it showed ACB handling items during the searching in a less scrupulous manner than the accused, which was the thrust of the Crown case," Mr Carroll states.

"Prosecution lawyers confirmed they were unaware the footage existed. ICAC and ACB were always aware of it ... this was an extraordinary state of affairs."

Mr Carroll said this, in conjunction with the failure to disclose the audit report to both the accused and the DPP, "raises serious questions about those responsible for the conduct of this matter at the ICAC and ACB".

"It should be a matter of utmost concern to you (and the government) and there is nowhere for our members to go to make a complaint because it was the ICAC who was responsible for the investigation," he states.

Further, Mr Carroll states that the analysis in the document "makes it clear" that if a rigorous approach had not been pursued by lawyers acting for the eight accused police officers "a miscarriage of justice would almost inevitably have occurred".

Mr Carroll declined to elaborate on the matter when contacted yesterday, other than to state "the document speaks for itself".

Prominent barrister Michael Abbott QC, who successfully represented one of the officers who funded their own defence, confirmed that his client was seeking reimbursement of legal costs.

"What happened to my client was an absolute disgrace," he said.

"The inquiry was already under way when my client was transferred into the Sturt Mantle group. My client had an unblemished record and had never been suspected of any wrongdoing.

Emotionally, physically and financially destroyed: cleared officer

An independent inquiry into the investigation and prosecution of the Sturt Operation Mantle team should be held, according to one of the police officers targeted.

The officer, who asked not to be identified, said those who made the flawed investigative and prosecutorial decisions needed to be held to account.

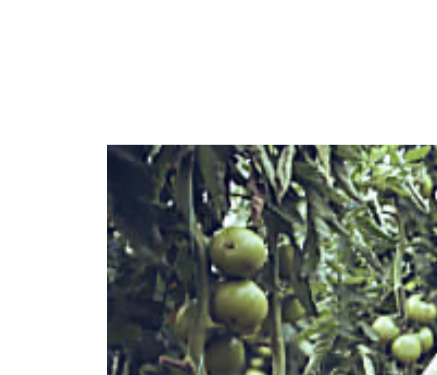
"I believe this deserves a royal commission. We have no ability to make that happen, but I believe that is the only way we will see justice in this," the officer said.

"This has emotionally, physically and financially destroyed all of us. It has ruined marriages, it has ruined relationships, destroyed our self-esteem and self-confidence. And it has totally destroyed our faith in the organisation."

The officer said if the subsequent audit report into Sturt police station had been disclosed "from the outset" it would have "blown this whole investigation out of the water".

"If the document was provided it should have been the end of this prosecution, but it was withheld," the officer said. "There was never any evidence which indicated any of us did anything criminal, only what 99 per cent of other officers were doing. They were accepted practices and that was brought out in the evidence heard."

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