

## **Chapter 3**

### **Recording of disturbance, 19 July 2013**

#### **Overview of evidence**

3.1 The second matter was raised by the chair of the former select committee, Senator Gallacher and referred in the following terms:

- (a) Whether any false or misleading evidence was given to the former Select Committee on the Recent Allegations relating to Conditions and Circumstances at the Regional Processing Centre in Nauru in relation to a disturbance at the centre on 19 July 2013; and
- (b) If so, whether any contempt was committed in respect of those matters.<sup>1</sup>

3.2 In his letter, Senator Gallacher provided an outline of his concerns:

- The select committee had received evidence (in submission 62<sup>2</sup>) that camera footage existed of a disturbance at the regional processing centre on 19 July 2013.
- At a select committee hearing on 19 May 2015, in response to questioning about the use of body cameras, representatives from Wilson Security said there was no relevant information about the incident arising from any camera footage.
- In a letter dated 20 May 2015 the select committee asked Wilson Security to respond to allegations in submission 62 about the conduct of their staff on 19 July 2013. Wilson advised that it was ‘not aware of the video footage referred to in the submission’.<sup>3</sup>
- At the select committee’s public hearing on 20 July 2015, the issue of body cameras and camera footage was again raised and Wilson Security again indicated that there was no footage of the riot held by the company.
- On 13 August 2015, ABC television broadcast a segment on 7.30 which included the footage apparently referred to in submission 62.
- At the select committee’s public hearing on 20 August 2015, Wilson Security indicated that its previous evidence was incorrect. Mr Brett McDonald, Security Contract Manager for Wilson Security, also indicated that he was aware that evidence given at the previous hearing

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1 *Journals of the Senate*, 10 November 2015, p. 3335.

2 Other matters raised in select committee submission 62 were dealt with above, at paragraphs 2.9 – 2.12.

3 Wilson Security, response to select committee submission 62, p. 4.

on 20 July was incorrect but he ‘did not pick it up at the time to think to correct it.’<sup>4</sup>

- In addition, Wilson Security, in a response to a question taken on notice at the 20 August 2015 hearing, said that ‘A copy of all footage was provided to the Department [of Immigration and Border Protection] and the Nauru Police Force’.<sup>5</sup> The Department, in its own response, advised the select committee that ‘the footage was not available to them.’<sup>6</sup>

3.3 The inconsistencies in the evidence by Wilson Security outlined above led to concerns that false or misleading evidence may have been given to the select committee. Senator Gallacher concluded his letter as follows:

My concern about the seemingly deliberate and continual obfuscation of Wilson Security during the conduct of the inquiry prompts me to propose that the matter should be referred to the Committee of Privileges to investigate.

### **Consideration by the select committee**

3.4 The matter was dealt with in the report of the select committee under the heading *Recording of events of 19 July 2013*, at paragraphs 2.67 to 2.74, and in that committee’s conclusions at paragraphs 5.32 to 5.35.

3.5 The committee was particularly critical that ‘no attempt was made to advise [the select committee] of the incorrect evidence in the month after it was given’,<sup>7</sup> and that the error was revealed only during questioning. The select committee also made the point that the performance of the department was ‘called into question by their lack of knowledge of serious incidents [demonstrating] the limits of Commonwealth control or oversight of the RPC on Nauru’.<sup>8</sup> This echoes the point made by this committee in the previous chapter.<sup>9</sup> Without full knowledge of incidents, it is not possible for the department to properly discharge its accountability obligations to the parliament.

### **Response by Wilson Security**

3.6 The Privileges Committee wrote to Wilson Security on 13 November 2015. Wilson Security provided a detailed response acknowledging that, while ‘there were inadvertent errors, there was never any intention to mislead the Committee.’<sup>10</sup> Wilson

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4 Mr Brett McDonald, Security Contract Manager, Wilson Security, *Committee Hansard*, 20 August 2015, p. 34.

5 Wilson Security, answer to question on notice, 20 August 2015.

6 Department of Immigration and Border Protection, answer to question on notice, 21 August 2015.

7 Select Committee, Report, paragraph 5.33.

8 Select Committee, Report, paragraph 5.34

9 See paragraphs 2.53 – 2.55, above.

10 Wilson Security, response to the Privileges Committee, 27 November 2015, section 6.

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Security addressed each of the above concerns in turn. An important aspect of the response lies in the distinction between footage of the disturbance and what Wilson Security describes as ‘pre-disturbance footage’.

3.7 The submission confirmed that Wilson only became aware of the footage in question when it was aired on the 7.30 program, and provided the following further detail:

The procedure followed by Wilson Security at the time of the disturbance was that, after the occurrence of an incident on Nauru, any available video footage would be collected, reviewed, and anything that was not relevant was deleted. The objective is to retain only relevant footage.

This process was followed after the disturbance on 19 July 2013. The footage that was retained was provided to the Nauru Police, and a copy retained by Wilson.

The specific footage that was shown on ABC Television, and which was the subject of the statement in the Submission and Mr Rogers’ response, was not footage that Wilson Security was able to locate during the Inquiry. It was clearly taken from a bodycam being worn by a Wilson Security officer.

We can only presume that individual retained a copy of this particular footage for their own purposes, but that the footage was either deleted by Wilson Security or unable to be recovered from the post-disturbance computer system<sup>11</sup>. We do not know who held on to the video footage, or how it was taken from the Wilson Security computer system.<sup>12</sup>

3.8 At the select committee hearing on 20 July 2015, Mr Rogers stated ‘I do not believe that we had any kind of individual video cameras in place at the time of the July 2013 riot’ and ‘There is none [footage] held by the company that I have been able to obtain.’<sup>13</sup> Wilson Security concede that these two statements were incorrect, but maintain that Mr Rogers ‘believed them to be correct at the time he made them.’<sup>14</sup>

3.9 In relation to the provision of footage to the department and the Nauru Police force, Wilson Security explained the confusion to the Privileges Committee by making a distinction between pre-disturbance footage and footage of the actual riot.

By way of clarification, the response quoted by Senator Gallacher...was in reference to footage of the actual disturbance – not the pre-disturbance footage. The footage that aired on the ABC was not provided to the

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11 Wilson Security’s IT infrastructure was damaged during the riot on 19 July 2013 and remained inoperable for six months. During that period there was no server infrastructure and Wilson Security relied on staff saving information on individual computers. *Committee Hansard*, 20 August 2015, p. 30.

12 Wilson Security, submission, 27 November 2015, section 4.3.

13 Mr John Rogers, Executive General Manager, Southern Pacific, Wilson Security, *Committee Hansard*, 20 July 2015, p. 42.

14 Wilson Security, submission, 27 November 2015, section 5.5.

Department as it occurred prior to the disturbance taking place. This particular footage would also not have been made available to the Nauru Police force.<sup>15</sup>

3.10 Wilson Security contend that, while mistakes were made, they were made innocently, and that the failure to correct the mistakes as soon as possible was due to oversight rather than any intention to delay or mislead the select committee. The submission pointed to a previous example where Wilson officers sought to correct the record as soon as possible, providing corrected information on 25 August 2015 to answers previously given on 19 May 2015.<sup>16</sup> In concluding, Wilson Security representatives offered that they did their best to assist the select committee in its inquiries into a complex and wide ranging matter.

Our answers often reflect a degree of uncertainty. Sometimes they reflect confusion about the questions. We did our best to research matters and make inquiries.<sup>17</sup>

### **Committee view**

3.11 The committee considers that the further response provided by Wilson Security clarifies the matter. The response contends that the witnesses' errors in providing evidence to the select committee were inadvertent, and the committee has no basis on which to challenge that contention. Only the members of the former select committee, and other committees which have taken evidence on related matters, would be in a position to assess whether the additional details provided to this inquiry comprehensively correct the record. However, this committee considers that Wilson Security has made a genuine attempt to satisfy the concerns raised in relation to this matter.

3.12 The record now having been corrected, and accepting that Wilson Security's representatives did not knowingly provide misleading evidence on the matter, the committee **finds** that no contempt was committed in this regard.

3.13 The committee's conclusions are in the next chapter.

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15 Wilson Security, submission, 27 November 2015, section 5.4.

16 Wilson Security, submission, 27 November 2015, section 5.6.

17 Wilson Security, submission, 27 November 2015, section 6.