

Senator Louise Pratt

Chair, Legal and Constitutional Affairs References Committee

7th September 2018

Inquiry into allegations concerning the inappropriate exercise of ministerial powers with respect to the visa status of au pairs and related matters.

Dear Senator Pratt,

On the 5th September I wrote to you in relation to the above-described inquiry and placed on record my recollection of an event which I contended was relevant to the Committee's consideration of these matters.

Yesterday, Minister Dutton released a media statement refuting the substance of my letter to you alleging that I fabricated evidence and that I subsequently provided that fabricated evidence to the Committee.

I will not address Minister Dutton's gratuitous assertions relating to my motivations or my mental health other than to reiterate that I feel duty bound to offer the Committee the information that I possess and to categorically reject his view that my engagement with the Committee has been catalysed by an accumulation of disaffection and stress.

Minister Dutton's factual basis for his assertion that I fabricated evidence appears to stem primarily from the fact that Mr Craig Maclachlan was not employed by him in June 2015 and he therefore asserts it is impossible for the conversation which I recounted in my letter to have taken place. I thought it therefore critical for me to formally write to you in order for the Committee to have further information to assess the veracity of my submission.

You may have seen my media statement overnight in which I strongly reinforce that a conversation with Mr Craig Maclachlan, as I recounted in my letter to you, did in fact occur. I am again reiterating that statement to you in this correspondence and I am willing to stake my three decades of distinguished and decorated public service on the absolute validity of this statement.

I concede that I may have been honestly mistaken in anchoring that conversation to a date in June 2015 however in light of the remarkably coincidental information I will provide to you below I contend that not only is it an understandable error, but moreover renders the only logical conclusion that a second Brisbane ministerial intervention case may merit the Committee's further inquiry.

As I do not have access to Departmental or ABF records - and particularly in light of the confusion that I have unfortunately already introduced in relation to dating this conversation - I intend to be extra-judicious in setting this conversation within a specific date range until I am able to refresh my memory from available records.

What I can categorically state however without any equivocation is that this conversation must have occurred after the date of Mr Maclachlan's commencement with Minister Dutton as his Chief of Staff (CoS) because the capacity in which he called me at the time was as the Minister's CoS. I am also certain the conversation did not occur in the months leading to my departure on leave from the ABF Commissioner's role on 27 May 2017. Therefore the date range during which this conversation took place was between October 2015 and the end of calendar year 2016.

I received Maclachlan's call while I was seated in my office at 6 Chan Street Belconnen. I believe it was received on my mobile phone as that was his normal manner of contacting me. I do not recall whether he rang from a landline or his mobile phone. His manner was respectful and friendly as normal.

Maclachlan's first words after the perfunctory greetings were that he was ringing on '*behalf of the boss*'. He said '*the boss's mate in Brisbane*' had an au pair/nanny - he used these terms interchangeably in both conversations I had with him on that day in relation to this matter - who had been detained at Brisbane airport by immigration officials due to an anomaly with her visa. Maclachlan asked me whether this was likely to be ABF officers and if I could find out the circumstances and reasons for her detention, and the likely outcome of that detention.

I did not ask for details of the prospective employer as I was confident of identifying the incident as these types of detentions did not occur in high volumes at Brisbane airport. I distinctly recall thinking after that call terminated that it was unusual for the Minister's Chief of Staff to ring me directly on such a low-level transactional issue when he could have tasked the office's Departmental Liaison Officer which would have been the ordinary first point of contact to obtain information of an operational nature.

For background, Maclachlan would directly contact me frequently as the Minister's CoS however it was predominantly on high level matters of policy or serious operational issues such as Operation Sovereign Borders. My sense at the time was that Maclachlan was involved because of the identity or status of the prospective employer which would escalate the seniority of involvement in the Minister's Office.

I immediately rang the either the Assistant Commissioner of the Strategic Border Command or one of his deputies as the Assistant Commissioner was often in the command centre without his mobile phone or busy in meetings. I relayed my instructions and asked for the discovery task to be given priority in order to reciprocate its seniority of representation.

I recall I was impressed with the speed of the task being completed when I received a call under an hour from the Strategic Border Command. I do not recall the exact individual/s who I rang or returned my call, however I recall both calls were made on my work mobile.

The information I was provided was that a young European female travelling on a tourist visa had been detained at Brisbane International Airport. I do not recall her exact nationality however I am reasonably confident she was from a Western or Southern European country. The reason for her detention was that ABF officers had spoken to her after she presented at the Primary Line. I can not recall whether she had been on an incoming alert or whether ABF officer's suspicions had been triggered by her behaviour or by her responses to questions.

I was advised that ABF officers had examined her electronic devices in the course of interviewing her. I do not recall whether I was advised if this was voluntary or if it was compelled under the Customs Act. I was advised that the officers had located electronic exchanges between the detained female and her prospective employer in Queensland which proved without doubt that she had entered into an agreement to work in exchange for reward as an au pair in breach of her visa conditions.

The person who advised me emphasised this point with me using words to the effect of "*Boss, this is solid. The comms and her intent are clear. It's a good stop*". This emphasis is a usual practice for subordinates in assuring their superiors that the detention was based on valid grounds and that officers had acted properly and defensively.

I was also advised that the next step was to effect the detainee's removal from the country unless there was an intervention. I responded with words to the effect of "*Do what you would ordinarily do. If anything changes, I'll let you know*".

I then immediately called Maclachlan using my work mobile phone which was my usual practice. I informed him of the facts as I have described above passing on the emphasis on the electronic communication between the detainee and her prospective employer. I also advised him that she would be removed from the country as soon as possible unless there was an intervention.

Maclachlan did not provide any further detail of his intent nor of the prospective employer but he did ask "*What needs to be done to fix this? Can the Boss overturn it?*" My reply was that if the Minister was minded to intervene then he could ask the DLO to request an 'intervention Minbrief' from the Visa and Citizenship Group of the Department.

I have a clear recollection of this part of the conversation as it was a highlight to me of the demarcated responsibilities of the merged Department of Immigration and Border Protection where a key stakeholder needed to obtain operational information from one part of the entity and seek an action from a separate part of the entity.

I had no further role or engagement with Maclachlan on this matter. I do not know whether an intervention was made, nor indeed whether the DLO was tasked to request an intervention brief on this matter.

As a result of the remarkably coincidental circumstances, and without access to records, I had made the apparently erroneous assumption that the conversation I have just recounted was in fact related to the 'Brisbane Case' currently under scrutiny of the inquiry, however it now appears that the records of the Department and the ABF, and officers involved in the described chain of inquiry, need to be examined to correlate it to a different Brisbane visa case.

I imagine that these records and accounts are able to be discovered as, for example, in the execution of my tasking to SBC it is likely that a minimum of four or five officers of descending ranks will have been involved in that communication sequences in order to reach and interrogate field officers to obtain the granular detail which I have described.

Records of detention of persons in this period should also be available, as well as records of access to the detainee's electronic devices and contemporaneous notes made by detaining officers. In addition to operational records, if in fact an intervention brief was sought, Departmental correspondence may corroborate a brief to the Minister's Office.

Finally on a point of technicality - albeit one which is somewhat moot at this juncture due to the actual date of when these events likely transpired - in mid-June 2015 I was still technically the CEO of the Australian Customs and Border Protection Service. I had been officially selected as the incumbent ABF Commissioner and was sworn into that role two weeks later on 1 July 2015. In the lead up to the commencement of the ABF however, internally within the merging entities, we had 'soft-launched' the integrated functions around March that year, and therefore I had oversight of the operational functions of both entities.

I submit this more detailed account and reconciliation as a supplement to my original submission to you in the hope and expectation that it will enable the Committee to more fully determine the matters under its inquiry scope.

Yours sincerely

Roman Quaedvlieg