

Michael O'Connell



Consulting Victimologist
3 Braeside Avenue
Holden Hill SA 5088
+61401716989
mjoco0759@gmail.com

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Rt Hon Robert Buckland
Lord Chancellor and Secretary of State for Justice
Attorney General's Office, 5-8 The Sanctuary, London, SW1P 3JS

Email: correspondence@attorneygeneral.gsi.gov.uk

Dear Rt Hon Robert Buckland,

Legal Aid for Victims of Terrorism

By way of brief introduction, I served as the Commissioner for Victims' Rights, South Australia, for 12 years before retiring. Prior I was the first Victims of Crime Coordinator and Victim Impact Statement Coordinator in that state. As well, I served for over 20 years as a police officer.

Since 2006, I have been a member of the international guest faculty for the courses on Victimology run in partnership with the World Society of Victimology. I am a Life Member of that Society and the current Secretary-General, and a member of an international network supporting victims of terrorism and mass violence. I do not speak for these non-government organisations.

While serving as the Commissioner, I funded legal counsel for victims of crime, so they had an equal and equitable voice, which was more readily heard, on decisions that affected them¹.

Of particular relevance to the ongoing debate in the British Parliament and elsewhere, I funded legal counsel to represent bereaved families in Coronial Inquests. For example:

Inquest into the death of Christopher Wilson² - On 27 February 2004 Mr Wilson had sustained a gunshot wound to the back and two shots to the head. He was conveyed to the Royal Adelaide Hospital where he subsequently died from his wounds.

Mr Wilson's mother, Julie Wilson was represented during the inquest by legal counsel whose fees I paid. Mrs Wilson had complained about an inept preliminary police investigation. The Coroner agreed and made adverse findings against the police officers and the police service.

Inquest into the death of Daniel Rapheal³ - Daniel Buddy Raphael was 20 years of age when he died on 2 June 2006. He had been involved in a motor vehicle collision that had taken place in the early evening of Thursday 1 June 2006.

First, I funded a solicitor to review all the evidence then to draft my submission to the Coroner requesting an inquest. After the Coroner agreed, I funded the same solicitor to represent Mr and Mrs Raphael at the inquest. Mr Raphael had complained that the Registrar of Motor Vehicles had erred in approving a driver's licence for a monocular adult who also suffered diabetes. The Coroner agreed and recommended changes to the procedures for assessing vision-impaired driver's competence.

Inquest into the death of Zahra Abrahamzadeh⁴ - Zahra Abrahamzadeh was stabbed repeatedly by her estranged husband, Ziaolleh Abrahamzadeh, at a Persian function held at the Adelaide Convention Centre on the evening of 21 March 2010. Zahra was taken to the Royal Adelaide Hospital but could not be saved.

¹ Kirchengast, K, Iliadis, M & O'Connell, M (2019) 'Enforcing Charter Rights through the Office of Commissioner of Victims' Rights: Integrity, Access & Justice for Victims of Crime', *Monash University Law Review*, 45(1): DOI: 10.26180/5d1327a9ab709.

²<http://www.courts.sa.gov.au/CoronersFindings/Lists/Coroners%20Findings/Attachments/510/WILSON%20Christopher%20Stuart.pdf>

³<http://www.courts.sa.gov.au/CoronersFindings/Lists/Coroners%20Findings/Attachments/478/RAPHAEL%20Daniel%20Buddy.pdf>

⁴<http://www.courts.sa.gov.au/CoronersFindings/Lists/Coroners%20Findings/Attachments/594/ABRAHAMZADEH%20Zahra.pdf>

Mrs Abrahamzadeh was survived by her three children – two young adults and one a teenager. As an advocate for these children, I had provided financial and other assistance. I also funded legal counsel to ensure they could voice their concerns (such as accusations that the police had not responded appropriately to Mrs Abrahamzadeh's requests for help) during the inquest. The Coroner made adverse findings against the police and recommended significant changes, as well as called on the Premier of South Australia to take the lead on reforms.

Inquest into the death of Chloe Valentine⁵ - Chloe Lee Valentine died on 20 January 2012. She was 4 years and 5 months old at the date of her death. A post-mortem examination was conducted by forensic pathologist, Dr Karen Heath, who provided a report giving the cause of death as 'closed head injury with possible contributing factor extensive subcutaneous and intramuscular haemorrhage'.

In mid January 2012 Chloe was living in a house at Ingle Farm with her mother Ashlee Polkinghorne and Ashlee's partner of the time, Benjamin McPartland. McPartland repeatedly placed Chloe on a motorbike from which she also repeatedly fell until she was unconscious. Polkinghorne filmed the episode. Neither McPartland nor Polkinghorne sought medical assistance for the unconscious child. Their failure to act by obtaining medical assistance for her once she was unconscious amounted to a very serious example of the crime of manslaughter by criminal neglect for which they were convicted.

I applied to represent the deceased child at the inquest into her death; however, the Coroner ruled that I could not represent a dead person but could intervene as an interested person. Through legal counsel, I cross-examined witnesses and made submissions, and I also authorised counsel to call Chloe's grand-mother as a witness to give her a voice that would be heard. Her previous complaints about her daughter's treatment of Chloe appeared to have not been taken seriously by child protection authorities. The Coroner drew on my submissions and made recommendations consistent with such. The Coroner's findings and recommendations contributed to a major overhaul of child protection in South Australia.

For each of the cases cited above and others, including giving victims legal counsel in criminal proceedings, I received an annual grant from the Victims of Crime Fund⁶. The Fund receives revenue from various sources, including a

⁵<http://www.courts.sa.gov.au/CoronersFindings/Lists/Coroners%20Findings/Attachments/613/VALENTINE%20Chloe%20Lee.pdf>

⁶ Part 6 – Victims of Crime Fund – Victims of Crime Act 2001 (South Australia), see <https://www.legislation.sa.gov.au/LZ/C/A/VICTIMS%20OF%20CRIME%20ACT%202001/CURRENT/2001.58.AUTH.PDF>

surcharge or levy paid by offenders; money recovered from offenders after the victims of their crimes were paid state-funded criminal injuries compensation; and, money derived from the sale of assets confiscated from offenders (including vehicles seized from 'hoon drivers' and proceeds of dealing in illicit drugs).

A similar Fund could be established in England and Wales, so victims' legal fees could be paid without drawing on already challenged legal aid funds.

On hearing the decision to deny families bereaved by terrorist-killers, I shared my opinion by letter:

International law proscribes victims right to access to justice⁷, which in my opinion includes legal representation to ensure voice and voice recognition in proceedings⁸. The United Nations has endorsed guidelines on legal aid that acknowledge victims should have access to such aid. Yet, despite the millions of tax-payers funds spent by government departments at the inquest into the London Bridge terror attacks, as reported, families of the victims have been denied legal aid.

Not fair, but unfair! Not just, but unjust!

Every victim matters. Victims' families had a right to be heard - but without lawyers how could they hope to push the envelope for the rights of their loved ones and themselves as well as all potential victims of terrorism.

The decision not to open the public purse to cover victims' legal fees magnifies the pain and anguish suffered. The decision is hurtful.

The decision is also unsettling as it suggests victims are not genuine, equal participants in the Coronial hearing. It signals to other victims that it is acceptable to deny them access to justice.

⁷ See, for example, UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (1985); and

- Covenant on Civil & Political Rights (eg Article 2)
- Declaration of Basic Principles of Justice for Victims of Crime & Abuse of Power (General Assembly resolution 40/34)
- Basic Principles & Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations (General Assembly resolution 60/147)
- Set of Principles for the Protection & Promotion of Human Rights through Action to Combat Impunity (E/CN.4/2005/102/Add.1)
- Convention against Transnational Organised Crime (eg Articles 24 & 25)
- Convention against Corruption (eg Article 32)

⁸ UN Guidelines and Principles on Access to Legal Aid https://www.unodc.org/documents/justice-and-prison-reform/UN_principles_and_guidlines_on_access_to_legal_aid.pdf

Mindful of my experiences, international law and principles, as well as pleas from families of those killed in the terror attacks on London Bridge for legal aid, I signed the petition that James Hodder, partner of Kirsty Boden who was murdered on London Bridge by a terrorist, began: see <http://chnng.it/sVNDWF85G2>

Victims should not continue to be the biggest losers in the fight against terrorism. Please act to give victims and victims' families access to state-funded legal counsel. Please endorse the proposed reform to ensure victims of terrorism (perhaps victims of violent crime) are given a stronger voice. You might also examine the practicality of establishing a Victims of Crime Fund, so the cost of a better justice for victims is paid by those who offend.

Yours faithfully

A handwritten signature in black ink that reads "Michael O'Connell". The signature is written in a cursive style with a long, sweeping underline that extends to the left.

Michael O'Connell AM APM | Consulting Victimologist | Secretary-General, World Society of Victimology | Victim Advocate, Second Chances SA | Member, International Network Supporting Victims of Terrorism & Mass Violence (INVICTM) | Foundation & Board Member, Victim Support Asia (VSA) | Member, NGO Alliance on Crime Prevention & Criminal Justice | White Ribbon Ambassador | Australia Day Ambassador | Patron, Love Hope & Gratitude | P +61401716989 | E mjoco0759@gmail.com | W <https://consultingvictimologist.com/>