

Individual Communication to the United Nations Human Rights Committee

*Cassidy v Commonwealth of Australia*

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## Statement of Shani Cassidy

*Wednesday 29 May 2013*

I have submitted a complaint to the United Nations Human Rights Committee with the assistance of the Human Rights Law Centre. I submitted this complaint on behalf of my son, Tyler.

Tyler was shot dead by three Victoria Police officers on the night of 11 December 2008. He was 15 years old. My son died just 73 seconds after police officers first approached him. They sprayed him with two canisters of OC foam. They then fired 10 bullets at him, five of which hit him and ultimately killed him. They didn't even ask him his name.

The investigation into Tyler's shooting by Victoria Police officers was conducted by Victoria Police. The investigation was not independent or thorough. It did not deliver justice for my son.

I do not believe that Australia is fulfilling its obligation to protect and uphold the right to life when it doesn't have independent investigations for police use of force resulting in death as required by international law.

I have made a complaint to this Committee because I feel it is so important that deaths like Tyler's be investigated properly by a truly independent body. The investigation was conducted by Victoria Police because, in Victoria, there is no independent body able to investigate deaths like my son's. Until such a body exists there can be no justice here.

The night he died, Tyler was upset and he was armed with knives. But he was also a child – just fifteen years old, alone, and distressed in an empty outdoor skate park.

It saddens me deeply that, when my son was dying, when he was taking his last breath, there was not one compassionate human being at his side. He might have wanted to say something of importance; offer his last thoughts. As a mother, to lose a child in this manner is the most horrific of outcomes. Tyler belonged to a family who loved him very much. We miss him very much.

Tyler's death was investigated by members of the same police force at whose hands he died. The police officers who killed my son were not even treated as suspects. Contrary to the usual practice of Victoria Police when dealing with others involved in homicides, the interviews of the police officers who shot Tyler were not audio or video recorded. The police officers were asked if they would agree to have their statements audio or video recorded, and they all refused and gave written statements instead. The police officers only agreed to give evidence at the coronial inquest into Tyler's death once they were given immunity from prosecution.

By contrast, the investigating officers treated me and my family like the criminals rather than the victims. For example, our conversations and meetings with Victoria Police were secretly recorded by them.

There was ongoing support for the police officers who killed my son during the inquest, but nothing for me.

I wasn't able to protect my son's body from autopsy because the Police did not inform me of my right to object. The police officers involved were told about the autopsy results within the week the autopsy was conducted but I had to wait until April to be informed.

The investigators also withheld vital information from me about my son's death, information that I only found out during the inquest.

Victoria Police made comments to the media that demonised my son including on the very night he died. They breached their policy on Media Interaction Following a Critical Incident and didn't seek the Coroner's approval before they released a statement – on the very night my son died before any investigation had been undertaken – which argued that the use of fatal force on Tyler was justified. The most distressing and personal challenges of my son's life were made public. His dignity and privacy were disregarded, and our memories defaced.

Further, the investigation was not properly conducted, there were many deficiencies in how the police carried out the investigation. Given these failings, how can I trust that the investigation into Tyler's death received the attention and proper process that it needed and deserves? How can I be assured that the Police Officers were really trying to uncover the truth and not simply cover for their mates - either deliberately or subconsciously? To me, this still feels like a completely senseless killing of a child and I don't really know why or how it happened. I'm not confident there isn't some sort of cover up or that I know all the facts about whether the force the police officers used was necessary because no one independent came in and investigated what happened.

When you lose a child in circumstances like these, you need to know the truth of what happened. We, the Australian community and grieving families, also need to be able to have confidence in our institutions. My son Tyler, my family and I have been denied this, because the investigation that followed Tyler's death was a disgrace, and our treatment by the investigating officers compounded our grief and suffering.

I don't want any other mother to have to go through what I have.

We live with Tyler's loss every waking moment. We also live with the trauma and memories of the tarnished investigation that followed, and of watching his life – and ours – be publicly scrutinised and distorted in the media.

Tyler has gone, and nothing will bring him back. However, ensuring a better, independent investigation process will help other families to avoid the kind of suffering we are going through. I will never hold my son again, but I will do everything I can to ensure that no one else has to experience the horror that we have lived with since he died.

I am asking the Committee to find that Australia is in breach of its obligation to uphold the right to life every day that it fails to introduce independent investigations into deaths resulting from the use of force by police.

Thank you.