

# Mallard to get millions? Don't bank on it

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Comment by Bret Christian

Andrew Mallard cannot expect the million dollar payout Lindy Chamberlain got for her wrongful conviction for the murder of her daughter Azaria.

There was no similarity between the two cases, Attorney General Jim McGinty said this week.

Mrs Chamberlain spent three years in jail in the Northern Territory before being released on appeal. She and her husband were paid \$1.3 million in 1992.

Mr McGinty said he was sympathetic to the idea of compensation for Mr Mallard.

He had had grave doubts about the case since John Quigley (a lawyer and Labor MP) and others had come to him and outlined the case, he said.

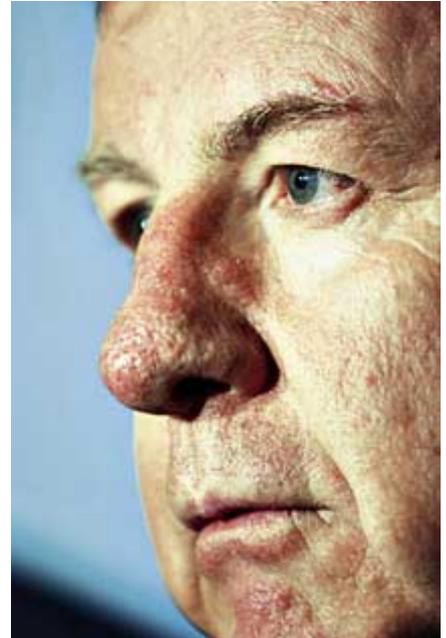
Damage had been done to the justice system by Mr Mallard's wrongful conviction.

"It's a shocking situation," he said.

But he did not think there were systemic problems with the process.

"From time to time you get injustices," he said. "We have certainly had a spate of them."

But people could take comfort from the fact that the system had corrected its errors, he said.



*Jim McGinty ... no comparison with Azaria case.*

It was quite clear Mr Mallard was wrongly charged and convicted.

"We can never fully compensate Mr Mallard for the 12 years he spent in prison," he said.

The benchmark for Mr Mallard would be the compensation paid to John Button.

He received \$400,000 compensation and \$60,000 to repay costs associated with his defence.

There would be a process of consultation with Mr Mallard on his circumstances, as had occurred with Mr Button.

Compensation is very rarely paid in Western Australia for wrongful convictions.

There is no right to compensation, and no right to recover legal defence costs.

Mr Button had to prove he had been psychologically affected in order to get compensation.

It is entirely in the hands of the Attorney General whether or not to make an "act of grace" payment.

In the UK, this power has been removed from the political arena.

There, it is assumed that compensation is automatically due, and the amount is set by an independent board.

UK defendants also do not have to organise and finance their own appeals.

There, doubtful cases are referred to a review board, which re-investigates cases and takes them back to court if required.

Mr McGinty said that such a review panel was not planned for WA.

In WA, this crucial role was carried out by the Office of the Director of Public Prosecutions, he said.