The Whistle August 1997

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Council plans forum for whistleblowers: A national first

Article from the *Sunshine Coast* Sunday 6 July 1997.

People with complaints against Maroochy Shire council will be given the opportunity to blow the whistle.

Maroochy mayor Don Culley has announced plans to set up a Public Interest Disclosure Committee to provide council with recommendations on issues of discrimination, ethics and conflicts of interest.

The committee would be the first of its kind in Australia.

Mr Culley said he envisaged an independent committee made up of community members of high integrity and a broad understanding of whistleblowing issues

"The committee would be the independent umpire regarding complaints or allegations in regard to how council conducts its business, and how it operates," Mr Culley said.

The proposal was canvassed at a meeting with National vice president of whistleblowers Australia, Isla MacGregor.

Ms MacGregor supported the plan and believes it is a first for local government in Australia.

"The proposal is a good step in the direction of raising community confidence in the accountability of local government," Ms MacGregor said.

She said she would be happy to assist the council in the establishment of the Public Interest Disclosure committee.

Mr Culley said the committee would draw on people who had a background in local government, for example former councillors, ministers of religion and retirees from business and legal areas.

Maroochy Shire council has a Code of conduct for its employees and councillors which canvasses ethical issues.

However Mr Culley said the proposed Public Interest Disclosures Committee would provide council and its employees with a totally impartial forum to raise any issue of concern or seek broader explanations of decisions. The committee would ensure there was no victimisation of individuals who made disclosures.

The Culley proposal will be put to council for further discussion.

University gags whistleblower

On 25 august 1997, when Federal Parliament resumes, Senator Reid, President of the Senate will suggest that the matter of Dr William de Maria's suspension from the University of Queensland be referred to the Senate Committee of Privileges.

This is a really important issue for whistleblowers as the University of Queensland claims that it has a legal opinion that parliamentary privilege does not attach to the submissions made by Dr de Maria in the Senate recently.

This opinion is clearly wrong; however if it is given wide currency it could prove popular with management wanting to attack employees who have made disclosures in the public interest in the past.

All WBs are encouraged to contact their Senators to seek their support when this matter is raised by the Senate President on 25 August.

Bill de Maria

Letter from Brian Martin, National President, WBA

Science and Technology Studies
University of Wollongong
NSW 2522

6 August 1997

Professor John Hay
Vice-Chancellor University of Queensland
St Lucia
Qld 4072

Dear Professor Hay,

I write concerning Dr William De Maria, lecturer in the School of Social Work and Social Policy at the University of Queensland. I understand that he has been suspended from his duties on the basis of various allegations.

Dr De Maria is Australia's foremost researcher into whistleblowing and one of the world's leading authorities in the field. I am aware of this through my own studies in this area. Also, through my role as president of Whistleblowers Australia and my contacts with numerous whistleblowers around the country, it is apparent that Dr De Maria has made an immeasurable contribution to the cause of those who wish to express dissenting views.

Therefore it is of great concern to me to learn that action has been taken against Dr De Maria before the allegations against him have been fully tested and proved in a fair and open manner. It is of even greater concern that some of the charges against him relate to his speaking out.

I encourage you to meet with Dr De Maria to work out a satisfactory way for the University of Queensland to make use of his undoubted talents. A widely recognised value of universities is the protection of academic freedom to investigate and speak out about issues of public interest, especially those that are a threat to powerful interests. It would be tragic for the University of Queensland to be seen to harshly treat one of its greatest dissidents.

I will be following the treatment of Dr De Maria with great interest.

Dr Brian Martin
Associate Professor

Update on the campaign to free Mordechai Vanunu

Senator Reynolds is proposing that the Senate adopt the following resolution (which has been agreed to by the European Parliament) in Federal Parliament later in the year:

The European Parliament

- having regard to its previous resolutions on the case of Mordechai Vanunu, in particular those of 14 June 1990, 22 November 1990 and 10 October 1991,

> A. recalling that Mordechai Vanunu has been held in solitary confinement in Israel since he was kidnapped in Rome on September 1986 and sentenced to 18 years imprisonment,
> B. deeply concerned that such incarceration for over ten years in a small cell will cause permanent psychological damage,
> C. aware that Mr Vanunu told the press everything he knew about Israel's nuclear weapons capacity more than ten years ago, and that he does not now constitute a security risk,
> D. noting that Amnesty International described this prolonged solitary confinement as `cruel, inhuman and degrading treatment' and called for his immediate release to `redress the human rights violations he has suffered',

1. Deeply regrets no mercy has been shown to Mordechai Vanunu since it adopted the previous resolutions referred to above;
2. Calls upon the competent Israeli authorities to show clemency to Mordechai Vanunu by removing him from solitary confinement and considering his early release.

Society expects to pay a price for corruption

Article by Trudy Harris in *The Australian* 9 July 1997.

Most people believe corruption in the public sector will eventually impact on their daily lives, a NSW ICAC report shows.

Released yesterday, the ICAC report paints a disturbing picture of people's perceptions of corruption and its existence within State and Commonwealth public services.

Called Community Attitudes to Corruption and the ICAC, the report shows 56 per cent of people thought corruption would impact detrimentally and indirectly on their lives or those of their families.

An increasing number of people thought corruption would hinder their chances of gaining employment in the public sector because of nepotism and "jobs for the boys" scams, the report says.

Others interviewed for the report said they thought corruption would financially impact on their lives through increases in services and others said corruption in the NSW Police Service meant they felt unsafe.

"The standard of living must go down as the money is absorbed in areas it's not supposed to be. They should have more inquiries as it

happens every day," was one response.

"It's unfair, you put your trust in the government and there are shonky people running things at the top. This disadvantages me and my family," another respondent said.

The report also says about 50 per cent of those interviewed thought they would not be caught if they engaged in corrupt conduct.

And 76 per cent said they thought they would "suffer" as a result of reporting corruption although 90 per cent said they had a responsibility to report such behaviour.

According to the report, people thought more stringent guidelines and standards should be enforced on the public sector than the private sector in relation to corruption.

ICAC randomly interviewed 511 people by telephone about corruption and how it affected their lives.

The anti-corruption watchdog has surveyed community attitudes towards corruption annually since 1993 to assist it to develop corruption education and prevention programs.

The ICAC Commissioner said the report proved ICAC had strong public support - despite criticism from State politicians, whistleblowers and reformers in recent years.

The report showed 82 per cent of respondents thought ICAC had successfully exposed corruption while 93 per cent supported the watchdog.

***Editor's note**: One wonders why the ICAC utilises its resources to find out if people think corruption is a problem. After all, if it wasn't thought to be a problem there wouldn't be an ICAC. ICAC's resources would more appropriately be used to investigate corruption rather than conducting surveys which it then claims `prove' it has the public's support. If ICAC took action against those who cause harm to whistleblowers this would also help to change the public's fear of reprisal for reporting corruption.*

Shooting the messenger is sooooo childish

Letter by Angela Mees published in *The Sydney Morning Herald* 15 November 1996.

Oh Dear! So we console ourselves with the thought that the Asians, too, practice racism.

"But look," we cry, naively, "they do it too. So it must be all right."

Is this not simply the adult version of a child's "but he steals from the milk bar too"? And don't we as adults always ask our children "and if he jumped over the cliff, would you do it too?"

Unfortunately, I suspect that as a nation we have regressed so far in terms of personal responsibility that we think that finding someone else who is even worse than we are is an adequate justification.

Poor fellows, my countrymen, we alone are responsible for our actions, both personally and nationally. In a mature society, pointing out the faults of others has never been considered an adequate excuse for one's own shortcomings.

Attention all members of Whistleblowers Australia

From the National Director

On 25 October 1996 Mr Barry O'Keefe appeared before the NSW Parliamentary Joint Committee on the ICAC:

In response to a question from one of the Committee members "Do you enjoy the trust of whistleblowers" Mr O'Keefe responded "If you are talking about the organisation, the answer is no, we do not ... I do not want to go into that because it involves a number of personalities and private information that I have in relation to people".

This comment gives great cause for concern. Members should consider making an application to the ICAC under the Freedom of Information legislation for their `personal files'. I'm sure most members are not aware that the ICAC collects `private' information about individuals and uses this to form judgements about them. Well, now you know.

Questioning continued and Mr O'Keefe then went further saying "it is fair to say that a significant number of [people who make disclosures to us] have personal and either professional or monetary considerations that they are involved in."

He also said "There is unfortunately a coterie in Whistleblowers Australia Inc., many of whom are pushing their own personal barrows".

WBA would like to hear from any member who has been investigated by the ICAC and who has been found to have acted from improper motives and charged accordingly. WBA is unaware of any member having been investigated in this manner and found guilty of making false and malicious allegations. If this has in fact not occurred then I can only presume Mr O'Keefe formed his view simply from the `private information' ICAC collects when individuals make disclosures to the ICAC or from unsubstantiated allegations made against members of WBA by their employer or other parties without any investigation having taken place. I wonder if this would mean that he has made false representations to the NSW Parliament in which case he would owe the WBA, its members and the NSW Parliament an apology.

Mr O'Keefe would do well to take note that the concerns of members of WBA who have made disclosures to ICAC is that the

substance of their disclosures has not been investigated by the ICAC. WBA's concern is also that ICAC took no action to prevent those members from suffering reprisal for making the disclosures and took no action against those who have caused the reprisals.

Mr O'Keefe's childish and pathetic attempts to minimise WBA's message about ICAC's failings by trying to shoot the messenger are pathetic. Members of WBA have never claimed to be saints. The only thing members have in common is that they claim to have reported wrongdoing and suffered the consequences. Only god would know what each individual's motive was for alleging corruption. Motivation only becomes an issue when allegations have been investigated and have been found to be completely lacking in substance. Only then could it conceivably be considered that the allegations had been made to suit some other agenda.

Unless of course Mr O'Keefe is god! The public should be warned.

Further update

Whilst appearing before the Parliamentary Committee again on 18 July 1997, Mr O'Keefe used the opportunity to give an extraordinary character reference (`*probably one of the finest general managers this state has known*') for a person who he later admitted he had known when he was an alderman on Mosman Council (Bazza was once mayor of Mosman).

How nice it must be to be a mate of Bazza's! Imagine how different things might have been for `certain' members of WBA if before giving information to ICAC they had made sure they had a friend there! They might still have lost their job but at least Bazza would have said nice things about them to Parliament!

The following was reported in the Sydney Morning Herald's gossip column on 19 July

`The head of [ICAC] Barry O'Keefe, precipitated an unseemly dispute between the Parliament and the electronic media, relating to his appearance before the parliamentary ICAC committee yesterday.

The background is this: last time he appeared the Teevs were allowed in for about five minutes to get footage at the start of proceedings and Bazza didn't like it. He waved his arms about and complained about how undignified it was. Naturally, this arm waving, et cetera, was aired on the box. subsequently, according to committee sources, O'Keefe attempted to obtain a full recording of that appearance. The networks, which each pay $500 a day for access to Parliament, saw a chance to recoup some of the cost, and said it could be done for $1,000. Standoff. Then yesterday, the committee announced that cameras would be barred from the day's proceedings, by agreement of the Chairman, Peter Nagle, who in turn blamed the Speaker, John Murray, for the decision. Murray denied all knowledge. someone is being less than frank. But our source said the television boys weren't too upset about it all. They can rerun the shots from last time.

DFAT bungles continue

From the *Sydney Morning Herald* 19 July 1997.

After round upon round of legal battles, Alastair Gaisford, the whistleblower who has been involved in a David-and-Goliath struggle with the Department of Foreign Affairs. was finally sacked last week.

Geez, you can't afford to have people who are too open and honest in the world of diplomacy. He never fitted into the culture: he is a rugged New Zealand individualist who held very un-Foreign Affairs views. (For example, he deplored paedophilia in the department and was a devotee of the Dalai Lama.).

Anyway, glad to be rid of this bloke, the department wasted no time in giving him his severance pay; tens of thousands of dollars in various entitlements were immediately paid into his bank account.

The next day the department realised it had stuffed up (yet again), and decided to unsack him, so it could do it properly at a later date. A grovelling letter was sent to the man, asking for the money back.

He has not agreed. Another battle looms. Score one for David.

Whistleblowers and the media - be prepared!

By Jean Lennane

I was recently involved in a 4 Corners program about post-traumatic stress disorder, wearing my psychiatrist rather than WB hat. However, as is usual with TV programs, at very short notice they decided they needed a real person to illustrate the problem. We then started looking for a WB who fitted 4 Corners' criteria, and was willing to go on camera. However when we approached potential candidates, it rapidly became clear that while there were a number who would have been suitable, and if given time would probably have been willing to do it, they were mentally quite unprepared to make such a decision within the tight media time frame. The person who eventually did it, Rob Cumming, had done some (non-WB) media work before, and agreed without hesitation when we managed to find him.

What this experience, and others like it, brought home to me is the need for more education and preparation for WBA members on this issue. All the WB research shows that the media is the only outside body that reliably protects whistleblowers. This doesn't mean it always works, or will never backfire, but at 65 per cent satisfied customers in Bill de Maria's study versus less than 5 per cent for official channels it's far and away the best thing we've got. The difficulty is that the great majority of WBs are quiet, conscientious and private people, who would just as soon walk down George Street naked as expose themselves and their problems in the media.

But WBs who haven't yet gone public need to think about this now, and overcome their reluctance if possible. WB executives get calls from the media all the time, often wanting suitable WBs as `human interest' in their stories. The problem is they want them now, today, by 3 p.m. or 5 p.m., and you simply won't have time to think it through, consult your family, and ask all your friends' advice. If you can't make an instant decision, the chance will be lost, and may not come again for a long time, if ever. Some WBs' stories are big in their own right, and will get a run as long as they're not left until it's not news any more. Many are not as big, and will only get a run as part of a group of similar stories, or hooked onto another topic. WBA can help you get that run, but only if you're ready when we call you.

So what are the benefits of media exposure?

- Getting in first, before the bad guys have a chance to paint you as the villain. Obviously the sooner, the better, and best of all as your first whistle blast, though few WBs are aware enough soon enough to do it that way.
- Making your employer/victimiser aware that you are not alone. In enlisting the media you have made a very powerful ally, and will be treated much more circumspectly as a result.
- Making the wider public aware of the problem you are trying to expose. Five minutes on prime time TV is going to do more to achieve this than years of struggling with the proper channels.
- Attracting a positive response - from friends and acquaintances who didn't realise what was going on; and from potential allies and fellow-sufferers.
- If it goes well, it will be an important part of your healing process. Public vindication of your stand after months or years of private or not-so-private vilification is very gratifying, as WBs who've done it have found. I don't know of any WB who's done it who isn't a convert to it, though that must be a possibility.

What are the pitfalls?

- If you're still employed, and it's against the rules of your organisation to go public, you could be sacked, even if you are theoretically protected by the Protected Disclosures Act. This is the most important pitfall to consider. However, if they're going to sack you if you go public they are almost certainly going to do it anyway, and going public beforehand will put you in a much better bargaining position for a settlement.
- The media will want to do it from their angle, which isn't necessarily the one you want. This can't be helped. What they get out of it is the story they want; what you get is exposure, and in my view even part-exposure is almost always much better than none.
- Your lawyer will always tell you not to. This is nearly always bad advice. You will get a better deal in court if the case is in the public eye, and a much better settlement. The only thing you mustn't do is comment publicly on the case itself while it is actually being heard, but while you're waiting, during the months or years before it gets into court,

go for it. And if there's some angle quite unrelated to what's before the court, and you get the chance while the case is on, go for that too (but better get legal advice on that one first).
- It could be an ambush, where you could be made to look bad. This is very unlikely if the approach was via WBA. We are a good source of material to the media, and they are unlikely to risk damage to that relationship. It is also unlikely if you go to them yourself, with back-up documentation of a clear exclusive story. An ambush is most likely if you are in the position of defending yourself against someone else's allegations. (If you find yourself in that position, get advice from WBA urgently.)
- You'd make a fool of yourself, become tongue-tied etc. This really is not an issue with most media work, the exception being live TV or radio, which you wouldn't usually be asked to do. An interviewer knows how to make you feel at ease, and the questions will have been mostly discussed with you beforehand. Just relax and talk to the interviewer as you would try to explain things simply to a friend.

Think about it all now. Discuss it with family and friends, and decide what you'd be willing to do, and how public you'd be willing to be. You can be completely anonymous in the print media if you want to be (different name, age, sex) and pretty much disguised on TV. You don't have to give your name on radio, although your voice could be recognised. The problem in many cases, though, is that it will be obvious to anyone in the know, who the information must have come from. I personally think it's best not to try to be anonymous unless your life is in real danger, and probably not even then. Anonymity suggests there's something to be ashamed of, and there isn't. Wear your whistleblower badge with pride.

Going public is a big step for a private person, but it has to be done. I was fortunate in getting into media work long before I became a whistleblower. The first time I went on TV was in New Zealand twenty or more years ago, on a panel discussion about rape. Attitudes were only just starting to change then, and I was told when I was asked to appear that all they wanted was for me not to say that women really want to be raped, as they feared their usual psychiatrist would. So I didn't have to do much, but was terrified, (the program was live, too!) until I realised that the young woman waiting beside me was there to talk about having been raped. Going public on something so personal would still be a very big deal for most people today, but then it was unheard of. I felt humbled by her courage, beside which what I had to do was nothing, and my terror left me. It has never returned. She did fine, I managed to do more than just not say the bit I wasn't to say, and the program had a significant role in accelerating change. Perhaps if the thought of public exposure still terrifies you, it may help if you think of her too. Or of the first man who went public on being raped, a few years later.

WBA's National Media Contact list

Isla McGregor is producing a contact for the media which is to include names of people who are willing to speak publicly on whistleblowing in general and/or on specific cases or issues. Please could anyone who is interested in being on this list provide Isla (0362 391 652) with the completed form from the back of this issue of *The Whistle*.

Aunty denies `sleeping with the enemy'.

By Dr Tom Lonsdale

The situation is grim and starts with the veterinary profession's inattention to detail. Whilst it is obvious to most folks, including the McLibel trial judge, that junk foods are bad for health the veterinary profession appears to have been too busy to notice. Once pointed out, the fact that an artificial diet fed monotonously either directly or indirectly poisons animals, the profession should have risen up and acted. Instead the professional ethic ruled that a mass cover up should apply. With the cover up safely in place profits were to be made. Increasingly elaborate ploys are now used in persuading the populace to a. keep more animals and b. feed them high priced artificial concoctions.

Whilst the veterinary profession may have been derelict in its duty the real power resides with the multi-national artificial pet food manufacturers. In Australia Nestle is a big player; the largest, with a 65 per cent share of the market, is the Uncle Bens company (makers of Pal, Whiskas, Chum etc.) a division of the Mars Corporation the family owned confectionery giant. An estimated 43 per cent of Australian households own a dog, compared with 23 per cent of dog loving British households. The annual Australian consumption of artificial pet food is in excess of $700 million.

It would be hard to find an Australian over four years of age who would not know about the mass marketing of the products. Unfortunately the majority would not know that, according to legal advice, the advertising of these products is in likely breach of a number of statutes. A further consequence being that the problem lies not so much with the law as with its enforcement.

If the authorities fail to enforce the rules when there is blatant disregard for the truth in advertising rules, cruelty to animals legislation etc, then the chances look to be slim when dealing with covert, sly insinuation of ideas into the minds of the populace. Where covert promotions remain undetected the operators of the scam come to enjoy maximum benefit for minimum outlay. It's good business.

Enter the twin `educational' programs, the Australian Veterinary Association (AVA) Pet PEP Program for primary schools and the ABC Radio National `Science Show'. Both of these programs are influenced by the Petcare Information and Advisory Service (PIAS), the publicity front for Uncle Bens. Dr Jonica Newby is a front person for this front and has taken a leading role in the promotion of PetPEP throughout Australian primary schools.

Primary school teachers and school children would have little or no defence against this slick operation. Much the same applies to the highly educated listeners of the ABC Science Show.

Stuart Littlemore QC presenter of ABC Media Watch went to air with an expose on 3 March 1997. He opened the segment with the following:

> "For instance Radio National's "Science Show", presided over by Robyn Williams, a man close to canonisation. He's just completed a presentation of a four part series on why people should keep dogs and cats. Oh! they didn't admit that was the subject, but it was. Written and narrated by a publicist for something called the `Pet Care Information and Advisory Service' which, it seems fair to say, is nothing more than a front for the multi-national pet food manufacturer Mars, through its Australian subsidiary Uncle Bens."

Such a broadside, one might think, would be enough to scare ordinary mortals witless. We are not dealing with ordinary mortals but those who have grown accustomed to the exercise of considerable influence. Robyn Williams and Jonica Newby went on to produce a fifth, fifty minute program in the same vein and Dr Newby's book of the series is available in ABC shops.

Brian Johns the Managing Director and Donald Macdonald the Chairman of the Board have denied any wrong doing on the part of the ABC. They have both been fully informed of the activities and one must presume that they know and understand the rules. They have even been made aware that `our ABC' has been using taxpayer funds to publish media releases accusing the whistleblowers in this case of making false and misleading statements. (Surely the ABC is supposed to research the story in the public interest not become the story.)

Dr Newby meanwhile has ensured that the wheel has turned full circle to where we came in with the establishment vets. She has lodged a complaint with the NSW Veterinary Surgeons Investigating Committee, made up of representatives from her faction of the AVA. The meaning is clear, taxpayer money was used for surreptitiously broadcasting pet food propaganda and the taxpayer will foot the bill for the prosecution of the whistleblower who drew attention to the scam. We should not overlook that the taxpayers continues to pay for the privilege of poisoning their pets and then visiting the vet for an expensive and temporary fix.

Fortunately there are some good guys. Other departments of the ABC have investigated and reported on the pet food industry exploitation. Despite the constraints of the commercial stations there have been several `popular' segments devoted to the story. It seems a shame that the public has to depend on a handful of journalists who from time to time are prepared to risk the wrath of Dr Newby and the big budget advertisers.

(Next edition: the AIDS like disease suffered by animals forced to consume artificial pet food and the Australian Veterinary Association/ NSW State Veterinary Board cover up. For advance information consult: *http://www.zeta.org.au/~lonsdale/*).

Scapegoats

Editorial in *Sydney Morning Herald*, 7 July 1997

When things go wrong there is a tendency on the part of senior officials to find a scapegoat, preferably and generally someone from the lower ranks. This is what seems to be happening with the decision by the Department of School Education to act against several teachers who alerted the Wood Royal Commission to the department's failure to act against a teacher accused of sexually abusing girls for 20 years. The whistleblowing by the teachers alerted the royal commission to serious mistakes by the department's Case Management Unit, which was set up to handle allegations of misconduct.

It was the teachers, and not the department, who showed integrity by going to the royal commission and, rightly, exposing the CMU's unwillingness to carry out its responsibilities. The teachers told the royal commission last February that they had complained to senior officers within the department about a notorious teacher, codenamed T9 by the commission. But ineffectual investigations by the departmental officers resulted in T9 being able to continue his practice of sexually abusing girls unchecked. When the teachers were told that T9 was being seconded to a regional office while a department inquiry was taking place, they finally went to the royal commission.

The point about all this is that evidence produced at the royal commission makes it clear that there was a departmental culture of refusal to acknowledge that the sexual abuse of students by teachers constituted a significant problem in the school system. There was a strong suggestion in the evidence, for instance, that the CMU was more interested (and still is, apparently) in protecting its reputation than investigating allegations brought to its notice. It was typical of the department's approach, to cite another example, that a 1994 review of the education of girls in NSW was not asked to investigate any claim of sexual abuse the girls might have endured.

This unwillingness of the departmental officials to confront the real problem -- the sexual abuse of students - led the State Government to set up an independent body to investigate sexual abuse allegations against teachers. Attacking the vindicated whistleblowers, as the department has now done, endorses the cover-up. It should be stopped in its tracks by the State Government.

Letter to the Editor Sydney Morning Herald (unpublished)

Sir,

On 7th July, your editorial on `Scapegoats' criticised the Department of School Education for attacking `vindicated

whistleblowers' who alerted the Wood Royal Commission to the problem of T9's continuing sexual abuse of students. On 5th July, your `Good Weekend' magazine carried a lengthy, cover-page article by Richard Guilliatt attacking the motives and general character of NSW MP Franca Arena, who is also surely a `vindicated whistleblower', and is also alerting us to unresolved problems caused by child sexual abusers who appear to have been protected.

Why the difference in the Herald's attitude? Is it OK to blow the whistle on sexually abusing teachers, but not on judges or politicians? OK only if the abuser is never going to be publicly identified by name?

Child sexual abuse has been identified as `the public health problem of the decade'. Protecting children from its disastrous consequences has to be a priority in any caring society, and one would hope would also be a priority for the Herald. The support you can give people blowing the whistle on child sexual abuse is invaluable, but to be truly effective needs to occur - and be seen to occur - regardless of who the alleged perpetrator is.

Jean Lennane

Call to establish national academic advocacy service

From *Campus Review*, (Monash University) May 28-June 3 1997

Dr Bill De Maria, lecturer in the School of Social Work and Social Policy at the University of Queensland, principal researcher of the Queensland Whistleblowers Study and founder of the Queensland Whistleblowers Action Group, is calling for support to establish a national academic advocacy service.

De Maria envisages the service would provide partisan, high quality legal and administrative advocacy that would support academics faced with suppression of their research or vilification in the face of dissent.

"I think this trend to downgrade the importance of dissent as an academic function coincides with the movement to corporative universities," De Maria said.

"The first awakening were in the 1970s, but their nightmarish qualities are now apparent. I began with the need to enter into consensual relationships first with government and then with business. Dissent is not something that can be reconciled on an accountant's books."

De Maria is calling on academics to resign from the NTEU, which he claims is unable to provide advocacy for individual academics in cases of dissent or whistleblowing because of problems of innate conservatism of academic unionism and conflicts of interest where someone belongs to the same union as their head of department.

"Management are outmanoeuvring and out-resourcing the NTEU at every turn."

De Maria said he had been cited by UQ for unsatisfactory performance and that he was very dissatisfied by the way in which the issue was handled by the union.

De Maria can be contacted for more information on the service on (07) 3365 2741.

Adjournment 27 May 1997: Queensland Criminal Justice Commission

From current Senate *Hansard*

Senator Woodley (Queensland)(7.26pm): Most senators would know that I have been involved in issues relating to whistleblowing for most of my time in the Senate. In fact, this speech follows one I gave last night, but about a different whistleblower.

I was a member of the second Senate committee on whistleblowing issues. Many of the cases covered in the committee's inquiry centred around Queensland and I have continued to follow the whistleblowing issue and some of the specific cases with interest. I am concerned about the lack of action on this matter on the part of the coalition since it came into government last year. I believe they gave a pre-election commitment to do something about the need for greater legislative protection for whistleblowers but so far there appears to have been no action at all.

Part of my purpose in speaking tonight is to remind the government and the public that this is an issue which will not go away and one which needs to be addressed. There has been a lot of concern expressed in recent months about the further decline in public confidence in institutions of government. It is almost in epidemic proportions. That is why action on the part of whistleblowers, for example, would be one positive step which could be taken to reverse this situation. It would give ordinary people more confidence that if they do take issue and blow the whistle they will be protected and that their actions will be complimented instead of their becoming the target of all kind of retribution.

I indicate to the Senate tonight that it is my intention to introduce a draft bill to protect whistleblowers. I would hope that would be a spur to the government to do what they said they were going to do. We can only hope. This bill will be based on much of the work of the two Senate inquiries -- one of which was chaired by Senator Murphy, and chaired very well -- and also on the whistleblowers protection bill, which was introduced by another former senator who was very interested in whistleblowing, former Senator Chamarette.

No one can deny that there are still many examples of corruption and maladministration which need to be exposed. It is important that governments take more action to encourage whistleblowers to come forward and then to protect those who do. Unfortunately the shoot the messenger approach still seems to be the norm.

I want to make mention tonight of Dr William De Maria, who is a researcher and lecturer at the University of Queensland's social work and social policy department. Dr De Maria gave evidence on his research to the Senate inquiry and has done some pioneering work in researching the case histories of many whistleblowers.

It is important to highlight the value of the work which was done by Dr De Maria and his researchers. His work has focused predominantly on the public sector in Queensland, but there is little doubt that similar problems exist throughout Australia. If I wanted to be parochial, I could say that universities in Queensland have a tendency to produce high quality research. Certainly Dr De Maria's work should be seen as bringing credit to the University of Queensland's social work department.

However, there was one disturbing aspect of Dr De Maria's study into whistleblowing which comes not from his report but from the reaction which he received as a consequence of it. This is an illustration of the very problem.

When the details from the study were released, the credibility of the research and the researcher was attacked by the then Premier, Mr Goss. Mr Goss was reported in the *Australian* newspaper alleging that Dr De Maria had made up details in at least one of the cases contained in his research -- a serious accusation. In the state parliament on 12 April 1994, Mr Goss again attacked Dr De Maria, using material provided by the CJC, and again accused him of "frequently giving inaccurate details of whistleblowers' situations to the media' -- again, a very serious accusation.

Whilst I support an ongoing role for the CJC in Queensland, I am afraid my experience with whistleblower issues has somewhat dented my confidence in their ability to competently investigate and report on complaints. This is a classic case where the CJC, in response to a request from the Premier, had tried to identify the whistleblower referred to in a newspaper report on Dr De Maria's study. The CJC contacted Dr De Maria and, when he told them that he took the usual steps to protect the identity of whistleblowers when he was speaking about their cases, the CJC reported this in a pejorative way to imply significant falsification of details.

The CJC, in pursuing its investigations to back up its refuting of Dr De Maria's credibility, then provided details of the wrong case to `prove' its point. The real whistleblower concerned in the case later went public to confirm the accuracy of Dr De Maria's research and to support him against this attack on his academic credentials.

There can be few allegations more serious against and academic than that of falsifying research. Unfortunately, Dr De Maria's credibility was attacked in the state parliament in a calculated attempt to undermine his finding and deflect attention from the very serious situation which he uncovered. It is my understanding that, unfortunately, the state parliament does not provide the same

opportunity as the Senate in enabling those who believe they have been unfairly maligned in the chamber to put their side of the story. I wish that all parliamentary chambers in this country would do what the Senate does because it is a very necessary and important corrective, but then we lead the way on many of these issues.

I would hope that all senators could affirm the right of academics to speak openly about their research without having to endure attacks and dishonest efforts to undermine their credibility. Such attacks can have serious impacts on an academic's career prospects, particularly in the brave new world of tertiary education into which we have moved in recent years. Dr De Maria certainly believes that this attack on his credibility, and particularly the accusation that he falsified case studies in his research, has done his academic standing long-term damage.

He received extensive coverage in the media over a number of years for the research he has done in this area. His work is important and influential in looking at how we can do better to encourage and protect whistleblowers. AS I said before, I believe such achievements reflect well on the University of Queensland and the social work department for which he works. I hope that tertiary institutions support their academics when they are attacked, particularly when they have the courage to take on politicians and governments.

The important role which whistleblowers play has been highlighted in this Senate many times in recent years. It may seem that attention to this issue has diminished a bit in the last year or so, but I wish to assure the Senate that it is an issue which will not go away and which is as deserving of attention now as it ever has been. The extensive work done by people such as Dr De Maria shows that it is a serious and wide reaching issue which still requires strong action from government at all levels. I intend to build on the work of the Senate committees and other senators in this place and introduce draft legislation in an attempt to better address this crucial matter.

Letter to the editor, The Australian, 25 March 1997

Sir,

Senator Colston's response and the Government's acceptance of that response exemplifies the lack of accountability in government and corporate behaviour in Australia. The repayment of monies, the non-release of the Department of Administrative Services report, and the citing of a staffer for "sloppy" bookkeeping are a textbook response to a whistleblowing problem, where the prima facie case suggests otherwise.

All whistleblowers know this strategy. The Senate Select Committee on Public Interest Whistleblowing, which reported in August 1994, heard evidence from many individuals, including myself, who documented the institutional response that monies have been repaid, now procedures have been put in place, but the

audit report is not to be released. The respondent usually retains their job. The whistleblower typically loses their job and their career.

Many reports, including most recently the Ernst and Young report, have identified fraud as a major economic problem, It is variously estimated at between $13 billion and $20 billion annually, a large component of which is Federal funds. Despite the existence of budgetary black holes, those who subvert public expenditures continue to be protected. Those who reveal the subversion have no protection. Enough is enough.

Dr Kim Sawyer
Whistleblowers Australia

Giving and receiving support

From the National President

Providing support for individual whistleblowers is one of the main aims of Whistleblowers Australia. Indeed, unless we provide such support then all our other activities - such as campaigning for whistleblower legislation, free speech for employees and organisational reform - have little chance of success. That's because a large fraction of active members initially came along to get help with their own situation. Unless newcomers get some support, few of them are likely to stay around long enough to help others and to take up campaigns.

What does it mean to give support? It can be talking face-to-face or on the phone. It also includes providing useful contacts, writing letters or articles, attending meetings, making representations, sending out media releases, organising meetings and even holding rallies. But above all it means talking to the person, hearing their story and offering sympathy and advice.

WBA relies entirely on volunteers. There is no one who is paid to help anyone else. This means that we can't promise to take up anyone's case in the way that official bodies are supposed to (but too seldom do in practice). What we can do is help people to help themselves. This happens most commonly by sending information, by talking to people on the phone, and by getting together to share experiences such as at the NSW Branch's weekly "caring and sharing" meetings.

This sounds very good in theory and often it works in practice too. I've received many comments from people who have appreciated the help they obtained from leaflets, articles and The Whistle, from conversations on the phone and especially from meetings. Nevertheless, not everything is rosy. There are some common problems.

Many people who first come in contact with WBA are totally absorbed in their own situations. They call or attend meetings with the primary intention of getting help for themselves, not in helping anyone else. This is entirely understandable and normal. After all,

contact with WBA may be the first time anyone who really understands what it's like is willing to listen.

There can be a problem, however, when self-absorption persists. When those who ring repeatedly for advice or attend numerous meetings continue to demand support without giving anything in return, this may become a trial for their helpers.

One of the deepest features of human psychology is a trait that can be called reciprocity. It means that if someone does something for you, you are likely to feel obliged to do something for them. Companies exploit this feeling when they supply "free" samples, knowing that most people will feel obliged to buy something. If you feel uncomfortable when an acquaintance buys you a meal, it's probably because you feel, perhaps unconsciously, that you now have an obligation to return a favour. Many people refuse favours because they don't want to feel obligated.

When a whistleblower is being helped by someone, all it may take to maintain the relationship is adequate recognition, such as an occasional "thank you." An enquiry about the helper's own situation is often welcome. At a meeting, it is polite to listen attentively to other people's stories if you expect others to listen to yours. It doesn't take all that much to satisfy the norm of reciprocity. Many members are pleased to be able to help, and all they may need is some little acknowledgment that their advice or willingness to listen has indeed been appreciated.

When providing support, it's best to do it voluntarily and not because of any sense of obligation. If you want to support someone, go ahead. If you don't want to support some particular person - because you don't think much of their case, their politics or the colour of their hair - then don't. There's no obligation. But also there's no need to leave them stranded or drum them out of the organisation. Someone else may be willing to help, and it's best to let others make their own decisions. If no one wants to help, then the person will look elsewhere soon enough.

When providing support, don't expect thanks (though it's nice to get it). In some cases, the recipient of your help may even criticise you for not doing more. That's painful. It's best to give support because you want to help and because you get satisfaction from doing it, rather than because of thanks or admiration you hope to get from the recipient or others.

As for those who demand more than you can or want to give, just tell them clearly what you are and are not willing to do. You're not obligated to do anything, after all. If you aren't clear about this, some people may take advantage of your generosity.

Placing limits on your role as helper is also important in order to be effective over the long term. Those who work professionally as helpers, such as psychologists or social workers, can become highly stressed. They need support themselves, often obtained from co-workers. Workers in rape crisis centres and others who counsel people undergoing trauma can burn out very quickly, because of the emotional drain of providing so much empathy. The same can apply to those who help whistleblowers. To avoid becoming jaded

and resentful, it is wise to put limits on helping, however hurtful this may seem to some demanding whistleblowers.

One of WBA's long-term goals is to spread the skills of whistleblowing and struggling against corruption throughout the community, so that all the burden doesn't lie on a few individuals. That's why encouraging self-help and mutual help is so important. The more people who are able to help themselves and help others, the more time and energy is available to work on campaigns to change the social problems that make whistleblowing necessary.

I've been fortunate over the years to have known many people who were willing to help me when I needed it. In WBA itself, it is a continual honour to meet so many talented, passionate, principled and dedicated individuals, and to see the selflessness of those who have worked on the behalf of others, sometimes for years. Of course we have our differences and conflicts, and there is much that we can learn and do to improve. But let's also be proud of what we are and what we've achieved. And thank you all for your valuable support.

Brian Martin

NSW Branch news and arrangements

Stop press ... ICAC innovation

ICAC Commissioner indicated during a public hearing of the Committee on the ICAC (21 July 1997)that the Commission was considering implementing a new step in the ICAC complaints reporting procedures. Whistleblower clients would receive feedback prior to a decision being made by the Operations Review Committee.

Dare I ask? I wonder what motivates the ICAC? Better client whistleblower relations, and assessments, do you think? Call me a cynic, do. I can't help but think that this might be a wonderful way of making a decision not to investigate seem that much more publicly unassailable.

Presently, based on WBA experience, the ICAC seems to operate like one giant rolling McNair Anderson Poll. Individual complaints investigations, like public accountability and whistleblower client confidence, are clearly not actually on the agenda.

Times are tough it seems and ICAC resources are hardpressed printing up glossies, holding workshops, and well ... just keeping up appearances. WBA says don't waste your time and public dollar. Ignore the ICAC rhetoric. Know the ICAC for what it is and vote with your feet. Take your information elsewhere.

Review of role and function of ICAC

A review of the ICAC is under way and submissions are invited by the parliamentary committee responsible. The proposed hearing date is 31 October 1997.

Submissions are due by 31 August and should be addressed to Peter Nagle MP, Chairman, Committee on ICAC, Room 813, Parliament House, Macquarie St, Sydney 2000; phone 9230 3055, fax 9230 3309

Seminar on the NSW Protected Disclosures Act 1994.

NSW has obtained funding from the Law Foundation for a half-day seminar. Thanks are due to Bob Taylor for both coming up with the idea and securing their agreement.

Planning is underway. Please pencil it into your diary now for October 23 at the Metcalf Auditorium, State Library. We will keep you posted. Enquiries: Bob Taylor or Cynthia Kardell on 9810 9468.

Survey

Members are encouraged to participate in a survey of whistleblowers who have been subjected to forced medical and psychiatric assessment and medical retirement. Please see the advertisement published in this newsletter for full details.

NSW branch office is open

At 7A Campbell St., Balmain. NSW 2041. Telephone (02) 9810 9468.

Current hours: 11am to 3pm, (mostly) Mondays, Wednesdays and Fridays. Members should telephone first and make sure before setting out.

Photocopying and fax phone facilities available within office hours by prior arrangement. Current charges are:

- photocopying @ 4cents a copy [includes paper].
- local fax transmission/telephone calls $1.00 each.
- STD fax/calls are generally $2 each.

Please note credit is not available.

Computing facilities are planned, but not yet available.

The office will generate costs and the need for the development of further services. It all costs money; for example, the first service /repair on the photocopier set us back some $345.

Members could assist by the ongoing donation of office supplies and equipment. For example: reams of paper, pens (all sorts), sticky tape, a guillotine, 2-ring binders (Arch Lever preferred), exercise books, powerboards etc. etc.. And money ... always money (of course!).

Wanted (for a very good home)

Computer, 32 mbyte RAM, 2 gigabyte hard disk, Pentium speed - sufficient to carry a Windows NT operating system: a good quality 486 PC; a 28.8 external modem and current plain paper fax unit.

Thanks a million!

We would not be in our present position but for the generosity of our members and others. So thank YOU, Don Dillon, Grahame Wilson, Bob Taylor, Ross Sullivan, Anne Turner, Lesley Pinson, Alex Tees, Alex Shea, Simon Disney, Jeff Shaw, QC, and WorkCover. Please make no mistake, your continuing support will be (and is) valued and absolutely necessary.

NSW office bearers 1997/1998 details

- **President:** Cynthia Kardell, ph/fax. (02) 9484 6895.
- **Secretary:** Jim Regan, mobile 0417 27 5522, ph. (043) 44 5028.
- **Committee members:**
  - Frank Nejad: ph. (02) 9417 8939, e-mail: *nejad@aust.net*.
  - Stewart Dean: ph: (02) 9630 3819.
  - Grahame Wilson: ph. (02) 9692 9959, fax. (02) 9744 3610. e-mail: *wilsongr@ozemail.com.au*.
  - Neil Mayger: mobile 019 993 675.
  - Richard Blake: ph. (02) 9559 1680.

WBA on the Internet

WBA New South Wales branch website address is *http://www.whistleblowers.com.au*. I encourage you all to visit the web site and while you are there register your e-mail address with Frank Nejad who manages the site. Later, members will be invited to lodge their stories for publication on the Internet; full details in the next issue of *The Whistle*.

NSW Branch meeting

At 3 p.m. on 7 September 1997.

A member of the NSW Parliament will speak on child pornography.

Cheers.

Cynthia Kardell

From the National Director

Get well soon Keith Potter

WBA's National Executive is sad to hear that Keith Potter in Victoria is unwell and wishes him a speedy recovery. Keith was involved in the very first days of what is now the WBA. He has worked long and hard on some individual cases, most notably Bill Toomer's case. Bill after more than 20 years of struggle, and despite Senate Committee recommendations, has still not received any compensation which is a disgrace. Neither Bill nor Keith have given up though and we hope they never will.

The Republican

Enclosed with this issue of *The Whistle* is a complimentary copy of *The Republican*, a new weekly newspaper which has addressed many important topics quite differently than the main stream press an in-depth way. It should be seen as a glimmer of light and hope for all those whistleblowers with stories that the mainstream media have ignored for one reason or another. As a brave and innovative initiative into the media marketplace (which seems to be almost a `closed shop') whistleblowers throughout Australia should consider supporting it. It will never be acceptable for the media to be controlled by only a few individuals. Support for *The Republican* by subscribing to it, providing it with good stories and simply by demanding that your local newsagent stocks it, will help to ensure that we will always have access to alternative opinions and that Government and `big business' can't keep too many secrets from us or feed us too much propaganda.

Whistleblowers beware - attacks on individuals not our business

The WBA recently received a copy of what can only be described as a scandal sheet - a page of `dirty linen' detailing personal information about an individual's private life which had Whistleblowers Australia at the bottom. It was not our official correspondence. The WBA does not concern itself about the private lives of individuals, not even our own members. Could readers please be aware of this and let us know if they see or hear of anything similar.

WBA has only concerned itself in official and public correspondence in supporting calls for inquiries into public sector organisations and for the protection of whistleblowers.

Correspondence attacking individuals which uses the WBA name has not been, and never will be, approved by the National Executive. No-one should use their position in the WBA, or WBA's official letterhead for this purpose. We have many much bigger problems to deal with.

Lesley Pinson

Care for Us

By Shane Nicholls

Care for us is an association for people who were formerly wards of the state and their supporters. The association was established following the revelation in the Wood Royal Commission that a paedophile working in the NSW Department of Community Services used his position to gain access to a youth who was a former state ward. This revelation encouraged Mr Shane Nicholls who was made a ward at the age of 12 years to inform media outlets of a history of physical sexual and emotional abuse while in residential care in the seventies.

By going public with his allegations of abuse in care Mr Nicholls hoped the Government would respond by extending the Royal Commission's terms of reference to enquire into the abuse of children who were in care. He hoped that former wards would be able to rid themselves of the psychological trauma suffered as a result of their abuse by those entrusted to care for them by having their stories investigated by The Royal Commission. There was also the hope that the Commission would recommend some form of compensation for the damage that they had sustained.

Since establishing Care For Us Mr Nicholls has received a great deal of information from former state wards, members of the public and staff of the Department of Community Services about the inadequacy of the department in dealing with allegations of abuse of children. Some 200 telephone calls were received following an advertisement in the Sydney Morning Herald asking people to come forward who had contacted The Department of Community Services about their concerns of a child being abused and the lack of action on the part of the department to protect the child.

Care for us demands the following: A Royal Commission to enquire into the Department of Community Services. The terms of reference would include;

- Investigation of allegations of abuse of all past and present state wards while in foster care or residential care provided by or funded by the Department of Community Services.
- Investigations of instances where children notified to the Department of Community Services were allowed to continue to remain in an abusive environment as a consequence of an inadequate investigation.
- The adequacy of current resources (financial, management, staffing and educational) of the Department of Community Services to carry out its role to protect children

Care for us believes that in order to protect children from abuse and to provide quality services to children and adults with disabilities a new Department made up by the amalgamation of the Department of Community Services and the Community Health Program of the Department of Health needs to be established.

Care for us believes that in order to ensure that each and every child in NSW is given the opportunity to reach their full potential that a Commission for Children should be established which would have the role to review all legislation and to motor the activities of all government agencies to ensure that they conform with the United Nations Statement on "The Rights of The Child".

Care for us believes that rather than focussing on the policing and punishment of young people involved in antisocial activities that these resources should be redirected into services which would prevent the development of antisocial behaviour in young people. It is well known that former state wards make up a significant percentage of the inmates of Juvenile Justice facilities and Corrective Services Institutions. Care for us believes that if these resources were redirected to improving the intervention by the Department of Community Services into multi-problem families; providing a universal home visiting scheme to all families after the birth of a child; improving the range of support for dysfunctional families; and providing better resources to adolescents there would not be the need to incarcerate youth in juvenile Justice facilities.

Shane Nicholls is Honorary Secretary of Care for Us; PO. Box 80, Canterbury, NSW 2193. Telephone 9716 4552.

Hero, or just a dobber?

By William de Maria (from *The Melbourne Age* 21.4.97)

Victoria is the only State with no law to protect the whistleblower from reprisal, writes William De Maria.

What happens if you disclose police wrongdoing in Victoria? The short answer is, an awful lot. And it's all nasty. One case reported last week tells it all.

A Melbourne woman, Debra Conomy, says she was subjected to various forms of family-focused harassment after she had made it known to the ombudsman that police had withheld incriminating facts from the Barr inquiry into the window-shutter scam.

The question was not whether police were taking kick-backs, but how many were involved and who at the top knew about a practice that has gone on for the past 20 years; In an unusual conclusion for an official report, police wrongdoing was actually found to exist.

Also unusual was the body count one policeman convicted of taking a bribe, five sacked, a further five officers fined, 13 resigned and (I am told) another 80 to 100 yet to face charges.

A whistleblower success story, you say. Not so. Looking down on this mess is justice weeping! It weeps for Karl Konrad, the police whistleblower sacked after drawing his superiors attention to the window shutter scam. It weeps for Debra Conomy, recently convicted of hindering police. Conomy claims that this was payback for reporting police involvement in the same window shutter affair.

It weeps for all of us, made timid and fearful by these frightful stories of what happens to people of conscience at the hands of powerful organisations that have quietly but resolutely slipped into vendetta mode. A mode, I might add, that stays like bad whether in the whistleblower's life long after the original disclosures have been made. For eg, a month ago, two years after Karl Konrad reported on the window-shutter scam, he was "visited" by seven

police ostensibly to retrieve his uniform. Some heavy uniform! Likewise, Debra Conomy's troubles with the police may just be starting.

What is going on here? One thing we can say based on my study of the experiences of whistleblowers is that Konrad's and Conomy's experiences area not unique. In that study, the volume of reprisals was so huge that the only way that we could manage the data was to divide reprisals up into official and unofficial.

Official reprisals are those camouflaged behind policy and procedure to avoid the charge of illegality, particularly the charge of victimisation. Actions such as selective redundancy, poor performance review, punitive transfers, and overwork are in the organisations' armoury, ready to be used.

Unofficial reprisals rely less on adverse reaction that can be legally and procedurally justified, and more on spontaneous workplace responses. The main one, and the one experienced by every member of our sample, was ostracism. This was followed by increased scrutiny of work, physical isolation and abuse.

The 102 whistleblowers in our sample were exposed to an average of 1: per cent official and 4:3 unofficial reprisals. Little wonder that most people who observe corruption walk away from it. That whistleblowers are a special breed is indicated by their willingness to go through it all again.

Another thing that we can glean from the study is that police forces are among the most dangerous organisations on which to blow the whistle. This is because of the continuing capacity of police to strike back. If, for example, you disclose wrongdoing in the fire brigade you could find them turning up late to your burning house. While that's bad, that is the worst that can happen, and it probably happens only once. With police, it is a different matter. There is always a "reason" to pull you car over, search your house, question your kids on the way to school, follow you, and there is always an opportunity in these contacts to plant evidence, and set you up on false charges.

What does it say about society that we are prepared to sacrifice its most ethical members? Why do we have such extreme difficulty in honouring and supporting people who make disclosures in the public interest?

As the ethics of our governments and institutions are increasingly being questioned, who else but the whistleblower will keep telling us about official wrongdoing and cover ups?

Whistleblowers come to us with mixed messages, and their very presence releases an enormous amount of passion. Good citizens or miserable little dobbers? While the intentions of whistleblowers are positive in their genuine concern for the public interest (as distinct from informers who disclose for advantage), their messages always appear negative and their modus operandi, particularly if they make their revelations to the media, as Konrad did, is likely to spark controversy.

They cannot match those heroes whose positive and gleaming messages we wrap around ourselves with glory. So don't tell us about the paedophiliac judge, the bent copper the risk of a new outbreak of tuberculosis in the crumbling hospital system, but tell us again how Australia 11 took the America's Cup.

What can we so? For a start we can write decent whistleblower legislation. There are four whistleblower protection acts in Australia, all written by bureaucrats, and none of them works. Not one single whistleblower has used any of these acts. Victoria is a special case. It is the only state in the Commonwealth that steadfastly refuse to even think about whistleblower protection.

This means either that Victoria is a corruption free zone, or the Government knows that there is a box here with Pandora written on it.

Dr William De Maria conducted Australia's largest study of whistleblowers. His book, Deadly Disclosures, is to be published by Wakefield Press later this year.

Changes to industrial relations law threatens free speech

By Avon Lovell

The present political turmoil in WA over draconian changes to industrial legislation now threatens to curb free expression on political matters.

The Trades and Labor Council of WA in the past month has coordinated widespread political opposition to the legislation, partly because it is being rammed through the Legislative Council prior to 22 May. This is because at the December 1996 State election, voters for the first time in the State's history have taken the balance of power away from conservative parties.

The changed balance of power will have considerable impact on the future direction of WA politics.

However the Court Government has overridden the will of the electorate.

After the election it announced for the first time details of its new industrial legislation which threatens the ability of working people to be fairly represented by union. One example: a secret ballot must be held before strike action.

No problem with this. The unions do not oppose secret ballots. However, any person who fails to vote in the secret ballot will be deemed to have voted no!

It was in this repressive environment that workers across the State, supported by Labor councils in other States, held a massive rally on 29 April in which some 60,000 people, many not associated with unions, marched to Parliament House.

At the same time workers at Western Power who were represented by the Communication Electrical Plumbing Union [CEPU] went on strike as a political expression of their outrage. The workers guaranteed sufficient power so that the public would not be inconvenienced.

Western Power responded with applications in the Australian Industrial Relations Commission seeking orders for the workers to go back.

The CEPU argued however that the Commission had no jurisdiction to use the Federal Workplace Relations Act to issue orders which would have the effect of stifling free political expression.

The union argued that the *Theophanous v Herald & Weekly Times* and *Stephens v West Australian Newspaper* cases in 1994 meant there was an implied guarantee under the Constitution of free political expression.

In those cases the High Court was asked to determine whether certain comments made about politicians by newspapers were able to base actions in defamation or whether the comments were protected by the constitution.

A majority of the High Court determined that there was an implied guarantee of free speech on political matters.

The argument was put to the Commission that it could not simply use the Workplace Relations Act to define "political" action as "industrial matters" so as to issue orders on striking workers. In short, the Constitutional guarantee was without qualification other than that it could not cover unlawful acts.

The Commission, although finding that the dispute was based on political matters, rejected the Constitutional argument and issued orders against the striking workers.

Subsequently, when the workers declined to adhere to the order, Western Power successfully sought an injunction from the Industrial Relations Court of Australia.

The CEPU was not notified of the hearing and was not there and the injunction order, obtained at about 6.00pm on Friday 2 May, was ordered to be served on the Federal CEPU office by fax not later than 8.30pm on Friday night. The State branch was served by a law clerk pushing papers under the office door at 7.30pm on Friday night.

Needless to say, certain actions ordered to occur over the weekend, did not occur, because no-one knew there was an order.

When the full facts of the extraordinary mode of service on the union was placed before the Court on 9 May, the Court dissolved the injunction without any order for costs.

In the meantime, the CEPU has filed a motion in the High Court seeking a writ of Prohibition against the Commission from further hearing any "political" matters as being "beyond jurisdiction"; a

writ of Certiorari to review the Commission decision as being erroneous on the face of the documents; and a stay of proceedings until the matters are determined.

This has caused a mini-furore of its own. The union has been directed by the High Court registry to issue notices to all States Attorneys-General, and the Federal Minister for Industrial Relations has sought to intervene.

The first return date is Wednesday 14 May at which time it is likely to be referred by a single judge to the Full Bench of the High Court.

There is huge potential impact, particularly for whistleblowers in Government and semi-Government areas. In the *Theophanous* judgment [124 ALR 1 at 13] there was an historic description of what was "political discussion", extraordinary because it had never previously been legally defined as such in the politics of Australia:

"For present purposes, it is sufficient to say that "political discussion" includes discussion of the conduct, policies or fitness for office of government, political parties, public bodies, public officers and those seeking public office. The concept also includes discussion of the political views and public conduct of persons who are engaged in activities that have become the subject of political debate, eg, trade union leaders, Aboriginal political leaders, political and economic commentators. Indeed, in our view, the concept is not exhausted by political publications and addresses which are calculated to influence choices. Barendt ["Freedom of Speech (1985)] states that: "political speech refers to all speech relevant to the development of public opinion on the whole range of issues which an intelligent citizen should think about." It was this idea which Mason CJ endeavoured to capture when, in "Australian Capital Television", he referred to "public affairs" as a subject protected by the freedom."

If there is such a freedom to communicate on political and public affairs as broadly defined by the High Court, perhaps whistleblowers in such areas [and perhaps any commercial areas which receive Government assistance of any kind] a constitutionally guaranteed protection hitherto not available.

Paedophilia: Policy and Prevention - Australian Institute of Criminology Conference

By Jean Lennane

This conference was held at Sydney University on 14 -15 April. It was a serious conference, on an increasingly hot topic for whistleblowers, so it seems important to share information from it with readers of The Whistle. The following is necessarily only a brief outline, but it can give some idea of who's who in the area, and where they're coming from.

It's not altogether clear how and why people were invited, but WBA, and people like Franca Arena, heard about it only on the grapevine. The main invitees appeared to be government departments, who could afford the high registration fee ($200 a day!), but whose record in this area is not impressive. Victim/survivor lobby and support groups seem not to have been invited, and any input from victims or their families was conspicuously absent from the official program -- even from the section on `Victim Evidence'. This section was originally going to have only two speakers -- Brent Waters, a child psychiatrist whose evidence in court has usually been on behalf of alleged offenders; and Richard Guilliatt, a journalist with the Sydney Morning Herald, who has written a number of articles about false allegations of sexual abuse, and a book `debunking' the existence of satanic abuse. However after protests Dr Anne Cossins, a Senior Lecturer from the Faculty of Law at UNSW was added to that section, giving an excellent and comprehensive paper on memory, and there was strong and vocal victim representation in the audience and discussion throughout the conference.

The keynote address was `Paedophilia: the public health problem of the decade', by Dr Bill Glaser, a Melbourne forensic psychiatrist. It was excellent, pointing out the magnitude of the problem, its devastating effects on victims, and the failure of existing systems, legal and otherwise, to deal with it, prevent it, or provide effective treatment for victims or perpetrators. There was a great deal of media coverage of what he said, which seemed to me to stymie what could otherwise have been the result of the conference, viz to provide a supportive introduction for proposals from Judge Howie that are to go to the Attorneys-General. These were announced in the Sun-Herald the following Sunday, and when viewed in a cynical light appear in effect to lower the age of consent to about ten, as long as the perpetrator has an honest belief that the child is older. (Since evidence from children under 6 years, for various reasons is seldom accepted in court, the practical result of these recommendations if implemented would be to provide legal protection -- such as it is -- only between the age of 6 and 10.) It would seem wildly unlikely that any Attorney-General could think such proposals could be acceptable to the electorate, but some very influential people are pushing them very hard.

The section on detection and reporting included Professor Kim Oates (paediatrics, Sydney Uni), Dr Judy Cashmore (Social Policy Research, UNSW), Kylie Miller (Strategic Intelligence Unit, NCA), who gave more information on the extent and seriousness of the problem from a victim-empathic point of view, and Dr Diana Kenny,(A/prof Psychology, Sydney Uni) whose line I found hard to follow, but tended to emphasise the unreliability of people alleging child sexual abuse.

The section on investigation, prosecution and defence included John Heslop, head of the new Child Protection Enforcement Agency, NSW Police, who seems to have a realistic view of the difficulties posed by offenders being `nice men', often pillars of their community, and with networks of protection. Margaret Cunneen, (Crown Prosecutor, DPP NSW) spoke about practical problems in prosecution, e.g. the refusal of most judges to allow offenders with multiple victims to have a single trial, at which they

would almost certainly be convicted, rather than a separate trial for each victim, at each of which they might well be acquitted, since the jury would be unaware of all the corroborative evidence. John Nicholson, (Public Defenders' Chambers, Sydney)

talked about alternative methods of dealing with the problem, particularly in intra-familial cases.

The Section on `the role of the courts' contained a good address by a Justice Frank Vincent, from Victoria's Supreme Court. Chris Puplick, Chair of the Anti-Discrimination Board, tried to defend the gay community against the unfortunately homophobic slant taken by the Royal Commission, while not downplaying the effect of paedophiles on their victims. (He distinguished himself from the WBA viewpoint in question time, by claiming that all this information now in the public arena about paedophilia is there because of NSW's effective Protected Disclosures Act! Challenged on this by me and Alastair Gaisford, he was unable to give any instance where the Act had worked, but remained convinced of its efficacy.) Patrick Tidmarsh, MAPPS Program, Victoria, spoke about their work with young offenders. Lex Watson, a well-known gay activist, Senior Lecturer in Government, Sydney Uni, gave a talk which was closely echoed in the final section of the day by David Buchanan, a Sydney barrister who successfully defended senior diplomat Holloway in the recent case brought under the legislation intended to enable prosecution of Australians who have sex with children while overseas. (The two witnesses, uneducated Cambodian street kids, were cross-examined for four and a half days.)

Watson and Buchanan were both rightly critical of the Royal Commission for giving the general public the impression that paedophilia is largely homosexual (not of course true; girls are molested at several times the rate of boys. The impression comes from homosexual paedophiles tending to have a large number of short term, serial victims, while heterosexuals tend to abuse a smaller number of children, usually in their own families, over much longer periods.). However, the rest of their thesis was disturbing: that children have a right to express their sexuality; that gay teenagers need older gays to show them the way; and that the age of consent (currently 18 and 16 in NSW) should be the same for males and females. The last being fair enough, but what they seemed to be proposing was a reduction in the age of consent to around ten years -- or maybe twelve -- they refused to specify exactly.

"Inter-generational sex" seems to be the buzz-word of the nineties, and the Watson-Buchanan line seemed to be echoed in Judge Howie's recommendations that appeared the following week.

The second day started with the section on victim evidence, continued with `treating offenders'. Prof. Richard Ball talked about abusers within the Roman Catholic church, copping some flak from representatives of Broken Rites, who say he has been overly supportive of abusers. Michael Edwards (Dept Corrective Services) and Chris Kelly spoke on treatment; Ros Harris (Juvenile Justice Victoria) on prevention.

In the afternoon, Nigel Waters, Privacy Commissioner's Office, HREOC, incurred considerable hostility from much of the audience by being more concerned with alleged paedophiles' rights to privacy than with children's right to protection, and criticising Deborah Coddington's book "The Australian Paedophile and Sex Offender Register". Deborah, who was at the conference, but had not been invited to speak, defended herself and her book very ably. It was clear most of the audience agreed with a parent of a victim who said she had done more to protect children in the last 6 months than all the bureaucrats had done in the last 30 years.

Alistair Smith and Tony Wright, Australian Bureau of Criminal Intelligence, spoke about the national paedophile database which is well under way, and will be accessible to government agencies such as education departments. It will include alleged/suspected/acquitted paedophiles as well as those who have been convicted. It will not however be accessible to parents or other legitimately interested members of the public, which is a worry from at least two angles -- unless it is publicly accessible no-one will know if names are being corruptly removed from it; and single mothers, for example, will have no way of checking whether the nice man who wants to move in with them is primarily interested in their children.

The final panel discussion was by Trish Draper, federal MP for Makin in SA, Ms Chris Beddoe, ECPAT (Australian campaign to end child prostitution, pornography and trafficking), Dr Ching Choi (statistics, Australian Institute of Health and Welfare), and David Thomson (Family Planning NSW). Trish Draper is one of the grand total of three MPs in Australia who are willing to make a stand on this issue (Franca Arena and Deirdre Grusovin -- both in NSW -- being the others).

The whole conference was interesting and worth attending, particularly for networking, but despite its title was very short on practicalities for prevention. This seemed to me to be due to a lack of will by the organisers, who possibly were too tied up in legal considerations and complications to see the need to look beyond them for solutions; or possibly were seduced by arguments from the `intergenerational sex' lobby. Perhaps they were all male. In this area of whistleblowing, the usual predominance of males is strikingly reversed, and -with honourable exceptions -- it is women who are sticking their necks out, while most men would rather not know.

Jean Lennane

Update on paedophilia

Encouraged by the number of active and angry people at the conference, plus the increasing number of WBA contacts with information on paedophilia, we decided to host a get-together meeting of interested individuals and groups. This took place in the Campbell St church hall in Balmain on 6th July. Invitation was by word of mouth only, but some fifty people came, heard an address by NSW Upper House MP Franca Arena, and decided unanimously to form an umbrella group, provisionally called the Australian Child Protection Alliance (ACPA). This now has a very active

committee which is currently meeting weekly in the lead-up to the release of the Wood Royal Commission report on paedophilia, due some time late August. In due course it would be good to coordinate activities with other states, so could interested WBs please contact Jean Lennane or Lesley Pinson.

The political and community scene around paedophilia seems a very typical whistleblowing one. We now have information, of varying degrees of credibility and documentation, implicating a very significant number of very highly placed people in this sort of activity, which would account for the complete failure of existing `protection' systems to deal with it at any level, and the treatment of its whistleblowers. The position of the media is particularly interesting. There is a handful of journalists who are doing sterling work, but having difficulty getting it published, whereas a journalist like Richard Guilliatt at the Sydney Morning Herald, who has written articles and a whole book debunking various aspects of complaints of child sexual abuse, was commissioned to write a `profile' of Franca Arena. This was published in the Good Weekend of 5.7.97, attacking her motives and credibility in classic whistleblower-reprisal style.

The ACPA includes a number of other bodies as well as WBA and other individuals. Most have a large amount of information already, and formal and informal networks, which when pooled will be a formidable force. Bodies such as Care For Us, representing state wards who were abused while in care, have already done a great deal of work. The overall picture emerging, like that of corruption in general, is not a pretty one, and a great difficulty that has to be overcome is the state of denial of ordinary, nice people, who can't bear to think that other people might do the sort of things it seems they do to small and defenceless children.

Stop press

Activities planned by ACPA for the next few weeks: a series of three vigils, on the themes of `Nobody's child' (State wards, street kids, disabled); `My child' (incest -- `the ultimate betrayal'); `your child' (abuse in schools, churches, cults -- `who can we trust?'). These will be held from 4 to 8pm outside Parliament House in Macquarie St on Thursday 14th, Friday 15th, and Saturday 16th August. There will also be a rally in the Domain from 11am on Saturday 6th September, the beginning of Child Protection Week. The Wood Royal Commission report on paedophilia will be released some time between the vigils and the rally, they can't yet say exactly when.

Amendments to the NSW Mental Health Act

By Richard Gosden

It is not unusual for whistleblowers to be referred for medical, psychiatric or psychological assessment as a condition of continued employment. When this happens the health professional

making the assessment is likely see the whistleblower's employer as the client, rather than the whistleblower, and this might influence the outcome of the assessment. If a whistleblower's beliefs about perceived malpractice in an organisation are not demonstrably shared by other people these beliefs could easily be interpreted by a doctor or psychiatrist as delusions or disordered thoughts and thus form the basis for a diagnosis of mental illness.

Until recently in NSW such an outcome might embarrass, demoralise and discredit a whistleblower but it was unlikely to lead to incarceration in a mental hospital. This was because involuntary commitment required that a person not only be diagnosed mentally ill but also be physically dangerous. However, changes to the NSW Mental Health Act, which passed through the Parliament in June 1997, might now make medical/psychiatric assessment more hazardous.

The five symptoms of mental illness specified in the Act remain unchanged. These symptoms are delusions, hallucinations, serious thought disorder, serious mood disorder and irrational behaviour. The identification of any one of these symptoms is sufficient to indicate mental illness. But involuntary commitment requires a further determination that the person is also "dangerous".

Before the changes "dangerousness" was defined as a risk of "serious physical harm" to self or other people. But the amendments have deleted the word "physical" from the criteria and now a person only has to be thought likely to cause "serious harm". An explanatory note attached to the amendments defines "serious harm" as including harm to finances or reputation. It is clear from the wording that this type of harm can be applied to either the supposed mentally ill person or another party.

These changes mean that if a medical practitioner forms the belief that a whistleblower's story is delusional, or the product of disordered thinking, and that its telling might cause harm to the finances or reputation of another party, then these will be sufficient grounds to incarcerate the person in a mental hospital. Although there is a supposedly fail-safe system designed to prevent inappropriate or mischievous incarceration, whereby two hospital doctors have to confirm a certifying doctor's diagnosis before admittance, this system might not be reliable. In 1995, for instance, 99.6% of the people delivered to mental hospitals in NSW under a doctor's certificate were admitted by the hospital doctors. This indicates either that the certifying doctors are very accurate in their front-line assessments of mental illness or alternatively that once a label of mental illness has been attached to a person other doctors have a tendency to confirm it automatically.

Workplace discrimination seminar

An important seminar for the victims of work-place discrimination is to be held at the Australian National University in Canberra on 21 August 1997.

An academic from the University's Research School of Social Sciences, Dr Gordon Briscoe, will examine the events surrounding acts of racial discrimination perpetrated on a non Aboriginal public servant John Bell in the Aboriginal and Torres Strait Islander Commission (ATSIC) in 1990 by Aboriginal fellow employee Harry Brandy.

ATSIC's refusal to address the matter with a handshake apology led three years later in 1993 to orders by the Human Rights and Equal Opportunity Commission (HREOC) that both ATSIC and Mr Brandy provide Mr Bell with written apologies for racism and damages totalling $12,500. ATSIC's refusal to comply with HREOC's orders opened up the racial issues to an eventual High Court constitutional challenge to the powers of the Human Rights Commission by guilty party Mr Brandy.

The result of the now infamous Brandy High Court case saw the invalidation of Federal Government discrimination legislation which had been designed to provide low cost access to social justice for victims of discrimination. The High Court decision removed the powers of HREOC to enforce penalties for discrimination and now forces victims back into the costly Federal court processes. Subsequently, ATSIC was able to use the threat of continuing Federal court action with associated costs to force the victim John Bell to leave the Public Service on a redundancy with a debt of $50,000 legal costs and no apology for racism.

It is significant that ATSIC is the first and only Government agency to have been found guilty of racism under the Racial Discrimination Act 1975 in the 22 year history of the legislation. In a 60 page report on 2 October 1992 and again on 22 December 1993, Race Discrimination Commissioner Ron Castan QC made scathing criticisms in his numerous accounts of intimidation and shonky stamng practices inflicted upon Mr Bell by ATSIC management.

Dr Briscoe will examine the manner in which a Government agency, ATSIC, was able to use its unlimited resources to prevent a handshake resolution for racist work-place behaviour in 1990 and instead developed the issues into a 5 year drawn out legal battle, with widespread damage not only for the victim but also for HREOC, an institution established by Parliament to protect the human rights of all Australians.

Dr Briscoe will look closely at the individual roles played in the issues by successive ATSIC Chief Executive Officers Bill Gray, Peter Shergold and Patricia Turner. Significantly, it was ATSIC CEO Peter Shergold (now Public Service Commissioner), whose sworn testimony of his own personal "administrative naivete" and failure to take legal advice from within his own organisation at the Castan inquiry on 16 November 1992 was instrumental in opening up the racial issues to the Brandy High Court constitutional challenge in 1994.

This seminar is the first opportunity to study at first hand the bureaucratic processes available within Government which were called upon to prevent the delivery of justice to a victim of racial discrimination.

Dr Briscoe, himself an Aboriginal academic, expects the seminar to serve both as a vehicle for public awareness of the injustice perpetrated on John Bell and as a warning for future victims of Public Service work-place discrimination. He hopes that the seminar will give added impetus to a campaign which began with a call for social justice for John Bell by Senator Paul Calvert in the Senate on 27 June 1995.

The whistleblowers

From the *Daily Telegraph*, 24 May 1997.

As the police royal commission goes down as a milestone in NSW history, it will be remembered most for the corrupt police it uncovered and the $64 million it cost. Meanwhile the original force behind the commission will be unsung and unknown. Stephen Gibbs tells the story of the people who fought to get the whole thing started.

Seven men and women sat around a coffee table on a couple of old lounges and kitchen chairs in the cluttered basement of an inner western Sydney house in early 1994.

One was a NSW politician, another his adviser. Two others were detectives, one with her policeman husband and the other with his housewife sister.

The last man was a "half-baked hippie" journalist.

They had come together for one job: to expose the NSW Police Service as endemically, systemically and hopelessly corrupt. To do what no one else had been able to.

The then Independent MP for NSW's South Coast, John Hatton, who has since retired from politics, had been fighting for a royal commission for 20 years but needed facts, faces and figures.

Veteran corruption fighter and Hatton adviser Arthur King, who was kidnapped by criminals and locked in a car boot in 1973, supplied the home and political nous to help his boss.

Detective Sergeant Kimbal Cook had been threatened with death for exposing crooked colleagues and accused by his bosses of making stories up. His sister Jackie Payne became Hatton's gopher and organiser.

Detective Senior Constable Debbie Locke, another to suffer harassment for reporting corruption, had kept a written record of her experiences and wanted to tell her tale. Her husband Greg agreed, despite the risk to his career as a serving detective.

The journalist, who still wishes to remain anonymous, wanted justice and a good yarn.

They were not organised, not powerful, and apart from Hatton and King, inexperienced in the political backroom badgering they would need to do to get the royal commission they wanted.

But during the next two months, in a series of secret meetings, late-night phone calls and after hundreds of hours of work, they would arm Hatton with the ammunition he needed.

To understand what drove these people in their fight to expose corruption, one must look at the battles they had fought in the past.

When Kimbal Manning Cook was growing up around Cooma about 30 years ago, the taxi drivers learned not to mess with the Cook kids.

Those who made the 5km journey out from town with bottles for the Cooks' alcoholic mother were photographed and "warned" to stay away.

"They stopped coming out," Cook said.

Same with the pro-golfer who laughed when the Cook boys told him to stop plying mum with alcohol or get out of town.

"He left town that night," said Cook. "We don't go looking for it but if you want to take us on, well look out," he said of his family.

Cook's mother was born on a table at Towamba police station, near Eden. Her father was the local mounted policeman.

Cook joined the NSW Police Force on August 8 1966, and on his first patrol was disturbed to learn that colleagues routinely robbed drunks they locked up overnight.

He spent all but five of his 28 years' service undercover.

All but six years he spent as a respected, efficient, trusted operative.

The last six years start on June 13, 1988.

That day Cook broke the brotherhood by reporting two colleagues who tried to enlist him in bribing a bookmaker.

The colleagues went to jail and Cook was sent to Coventry.

For the rest of his career he suffered harassment, ostracism and ridicule.

Cook spent four days being cross-examined at ICAC about his experience, then listened to NSW Police Commissioner Tony Lauer question his motives for speaking out.

"I thought, `Well f...you mate!' and said `This is war'," Cook said. He called Hatton. "I just said `Lauer's gone on the attack and I can prove that what he's said is not right,'" Cook said.

Cook's anger, and that of everyone else involved, grew with the release of ICAC's second and final report and what they all saw as its failure.

"{ Commissioner Ian] Temby had failed, there was no doubt about it in our mind that Temby had completely failed to expose the police," Cook said.

King and the reporter had already held meetings with two major Sydney crime figures who wanted revenge for alleged corrupt acts against them.

"We were prepared to listen, but we knew their information had to be treated buyer-beware. They had vested interests, and were serious criminals," the reporter said.

"In the end we chose not to rely on their information in any way, because they couldn't provide corroboration. And if we were to convince anyone of the need for a royal commission our sources had to be of the highest integrity."

Hatton, King and Cook all knew serving and former police who had evidence of corruption. The reporter knew others -- and how to keep a secret.

Former Cabinet Secretary to the then NSW Liberal Premier Nick Greiner, Gary Sturgess, said the political climate was right, one of the catalysts being the win by Lauer over then Police Minister Ted Pickering.

Mr Pickering resigned as Police Minister in September 1992 after differing with Lauer about the extent to which he had been briefed by his department over the attempted suicide of youth Angus Rigg in a police cell.

Sturgess and Greiner tried to get ICAC to take up police corruption "seriously".

Said Sturgess: "It became clear to me from my sources that it was not going to be the broad-ranging review I was told it was going to be."

Sturgess spoke to Hatton and King several times and offered them information he had on corruption.

The information went to the group, whose task was to find as many people as possible who were willing to speak out, on the record, and to prove what they said was true.

Gatherings were held at King's home, Hatton's Macquarie St office and the boardroom of a city travel agency office of Cook's brother Ron.

At each meeting the team discussed what they already had, what they needed to do with it and who else they could rope in.

One of the earliest recruits was Deborah Lee Locke. Among other complaints, she claimed two of her superiors on the fraud squad had been working for a former detective who had turned to running a private inquiry agency.

Her evidence was vital -- she had kept notes of everything she had seen and heard for years.

Others approached Cook, who was still a serving police officer, on the phone, through an informal network of whistleblowers and at secret rendezvous.

Whenever Cook went to meet someone he did not know, he took extraordinary precautions. And his sister, Jackie Payne.

"It's like having a smoke when you're 10," Payne said. "You think everyone can see you and smell you."

One of the early and most useful meetings was between Cook, the journalist and a former detective they visited in Canberra.

"Mr Black" had been an Australian Bureau of Criminal Intelligence (ABCI) officer who conducted an intelligence operation on more than 50 suspect NSW police -- it forced a major internal inquiry, Operation Asset, which went nowhere.

Mr Black, who has until now never been named publicly, is Glen Jones, now a customs officer.

"The whole strategy was to make them play the ball and not the man," Jones said of the reason for his anonymity. "Up until then everybody who'd ever stuck their head above the parapet had their head knocked off."

He was prepared to sign statutory declarations for Hatton.

The reporter remembers this trip for Cook's almost paranoid counter-surveillance -- turning into supermarket car parks, getting out of the car and checking the sky for helicopters.

Cook and Payne met police in parks, clubs in-laws' homes, Payne's husband's workplace. They met an officer in the staff room of a suburban police station at 3am and another in a Birkenhead car park at midnight.

All Cook's meeting with John Hatton were clandestine, up to the morning he caught the basement lift up into his NSW Parliament House room.

There he met Hatton's fellow Independent MPs Clover Moore and Peter MacDonald who said Hatton had their support.

Amendments were still being made to the speech, minutes before Hatton walked into the parliament chamber, and pages were being typed and sent out to him as he spoke.

"In the end, John got up and ad libbed anyway," Cook said.

"The moon and the stars and the planets aligned and we got the royal commission we hoped for," said Glen Jones.

The Oedipus complex: the perversion of a myth.

By Averil Earnshaw

According to the dictionaries, "to pervert" means "to misconstrue; to lead astray".

Ever since Freud's "first explicit introduction of the Oedipus complex" in 1897, psychoanalysts have accepted, and gone on to teach, Freud's version, or rather Freud's perversion, of the Oedipus myth.

According to Freud, all children wish to do what Oedipus actually did, i.e. to kill the parent of the same sex, and to martyr the parent of the opposite sex. The criminal intent is in the child, according to Freud.

While no one would deny that children can feel jealous of, and can harm their parents, we are equally aware that parents can harm their children, and indeed Oedipus' parents tried to kill baby Oedipus. When one consults any good encyclopaedia, or any reference book of myths of Greece and Rome, and one reads the Oedipus myth in full, one realises that the story begins with his parents' torture and attempted murder of Oedipus! Why? Read on:

Oedipus' father, King Laius of Thebes, had been told by the Oracle at Delphi that if he had a son, that son would kill him, and would marry his wife, i.e. the son's mother. This was to be a punishment for Laius' having stolen a boy, the son of his host, Pelops. So when Laius and Jocasta (his queen) had a baby son, they ordered that a nail be driven through the baby's feet, that the feet be tied together, and that the baby be abandoned on Mount Cithaeron to die. Laius felt safe. However, baby Oedipus was found by a shepherd, who took him to the childless King Polybus of Corinth and his wife. They cared for him, they named him Oedipus (swollen feet), but they let him grow up believing himself to be their natural child. They did not tell him the whole truth: they never told him that they were not really his parents.

Accordingly when, as a young man, Oedipus heard from the Oracle that he would kill his father and marry his mother, he was horrified! He left home immediately, determined that he would never do such things to the couple whom he believed to be his parents.

Now, as we know, Oedipus did kill King Laius, his father, but he did not know that the man he killed was his father Oedipus married Queen Jocasta, and had four children by her, but he did not know that she was really his mother! Years later, when Oedipus discovered the whole truth, he put his own eyes out. Why? What could he not bear to "see"? Was it what he had done, (unwittingly) to Laius and Jocasta? Or was it what they had tried to do to him? Or both?

Freud's version of the story omits the abuse of the baby by his parents. For over a hundred years psychoanalysts have been taught, they have accepted and they have continued to teach Freud's version of the Oedipus story. Is it not amazing that no one has corrected them? Or do they prefer the half-truth, i.e. Freud's version of the myth, to the whole truth? They are, after all, educated people, both intellectually and supposedly in the areas of their own unconscious minds.

In the Encyclopaedia Britannica we can all read: "Freud chose the term Oedipus complex to designate a son's feelings of love towards his mother and hate towards his father, although these were not

emotions that motivated Oedipus' actions or determined his character in any ancient version of the story."

Freud was an educated man; his writings are replete with references to famous works of literature. I find it impossible to believe that Freud did not know the Oedipus myth, in its entirety, and that in quoting it in part, that he was ignorant of misleading his readers.

We all behave sometimes in ways that we do not understand, i.e. we all have unconscious as well as conscious mental activities and motivations, and there is no reason whatever to exclude psychoanalysts from this human condition. They themselves have unconscious as well as conscious motivations for what they do, and say, and write.

What led Freud to "discover" his Oedipus complex in 1897, and to misconstrue the story of Oedipus? The context helps us understand.

In 1896 Freud had given his lecture "The Aetiology of Hysteria" to a large audience of professional colleagues in Vienna. This paper was based on ten years of clinical experience, and in it Freud spoke of eighteen cases of "hysteria", (12 women and 6 men), who had no organic basis for their symptoms. All of these patients recounted experiences of sexual abuse in childhood, some of which were verified by relatives.

As we know, at the end of the lecture, the Chairman referred to it as a "scientific fairytale", and Freud was isolated by his peers. Freud's old father died, only months after the lecture, and on the night of his father's funeral, Freud dreamed that he saw a sign which read: "You are requested to close the eyes".

In 1985 the Belknap Press published the *Complete Letters of Freud to Fliess*. In a letter written on 11 February 1897, we can read "Unfortunately my own father was one of those perverts and is responsible for the hysteria of my brother (all of whose symptoms are identifications)and those of several younger sisters." What a coincidence that Freud "discovered" his Oedipus complex in 1897, and that the part of the myth he rejected was the part about child assault!

How strange, too, that so many people today seem to prefer Freud's perverse version of the Oedipus myth to the complete version. Perhaps they too have "closed the eyes."

*(**Author's note**: I have quoted from "The Complete Letters of Sigmund Freud to Wilhelm Fliess, (1887-1904)". Translated and Edited by Jeffrey Moussaieff Masson. Belknap Press; Cambridge, Massachusetts, and London, England. (1985).)*

Legal system escapes scrutiny

By Robert Bond (*Courier Mail*, 2 April 1997)

Attorney-General Denver Beanland's Bill to amend the Queensland Law Society Act will mean legal consumers continuing to suffer a

complaints system under which lawyers judge themselves.

Consumer groups find this inadequate and outdated and predict it will fail to protect the public from an increasingly rapacious legal system.

Eight consumer groups asked for a meeting with Beanland to explain the excesses of the system, but were told the Attorney-General had made up his mind.

However, 24 representatives of these same eight groups recently had a meeting with shadow attorney-general Matt Foley and Opposition consumer affairs spokesman Judith Spence and forcefully described how an unaccountable legal system was contributing to people being defrauded, overcharged and bankrupted in cases where legal costs were 90% or more of any settlement.

The Queensland public rarely hears about many of these cases because the legal system has a code of silence. This code of silence is backed by defamation laws that are being used by legal professionals to prevent members of the public from bringing these matters to notice.

This results in most Queenslanders being unaware of what is happening in the legal system until they have the misfortune to have to use it.

The legal community directs the reform agenda, makes up most of the rules which increase legal costs, and charge the consumer any amount they decide. Consumers contribute millions of dollars to the General Practitioner's Fidelity Guarantee Fund to which the Queensland Law Society has total access.

In the last year, consumers have suffered major reverses in many areas of the legal system. The Queensland Law Society has claimed that it is not to blame for not notifying police about possible criminal activities by its members.

The Bill before Parliament is allowing the society to continue to investigate complaints against its members, and is establishing a kangaroo court masquerading as a tribunal made up of two solicitors and one lay person with the majority ruling.

Consumer funds in the General Practitioner's Fidelity Guarantee Fund are being used by the society for any purpose it decides.

These examples show how successful the society is at defending the interests of its members. This lobby group has been just as successful at suppressing consumer legal reform over the last 20 years. This goes a long way to explaining why consumers are so downtrodden by the system.

Examples put to Foley included:

- According to The Home Owners Protection Association, solicitors turned $30,000 building disputes into $150,000 legal bills, forcing the sale of the owner's home.

- Mortgage fraud topped $70 million with hard-working people losing their life's work to fraud and solicitor negligence.
- Pensioners were being regularly bullied because they lacked the money to defend themselves in a system in which tens of thousands of dollars are needed to become a minor player.
- Complaints from the Health Consumers Network about their members being overcharged and having to run the risk of forced sales of lifelong assets because of prolonged legal proceedings.
- The belief by the Consumer Law and Reform Association that consumers should be given the means to help themselves and not have to depend so much on lawyers.

The common denominator for all these consumer groups is a legal system that has lost touch with the fundamental needs of the community. The system is the way it is because a generation of politicians had taken the easy way out and allowed the legal community to have its way.

Many of us are shocked at Labor regularly adding lawyers to the Labor team. Many loyal Labor supporters are publicly saying there are too many Labor lawyers. Is Labor a traditional party for the battlers or an elitist party representing the privileged professionals?

It is surely time the 89 Queensland politicians realised the legal system is there to serve the needs of consumers and not to maintain the privilege and status of the legal community at an absurd level.

FLAC (For Legally Abused Citizens)

By Andrew Allan

A massive public response took place to a *Sun Herald* news item reported by Martin Chulov in which former MP John Hatton gave his view that the justice system in NSW is a "whole new battlefield of corruption left untouched by Commissioner Wood's report". Mr Hatton said there was evidence of longstanding corrupt practices including:

- Lawyers lying to courts.
- Lawyers not following clients instructions.
- Overcharging clients.
- Lawyers colluding with corrupt police.
- Gross inefficiencies and incompetence among some practitioners.

Mr Hatton said "The Law Society, and Bar Council and the Chief Justice, which for much of the time was Justice Street, the chief magistrate, the Ministers for Justice and Attorneys-General, have effectively done nothing."

Mr Hatton said a Government line that there were already enough bodies overseeing corruption in NSW was not satisfactory because "the ICAC or any other body are hardly going to investigate judges."

"We know that the court process is being distorted," he said. "The system works on jobs for the boys on both sides of Parliament, they often appoint the most inappropriate people."

John Hatton will be speaking in September to an inaugural public meeting in NSW of a lobby group, FLAC, that wants to hear from people who have been legally abused. If you have a legal horror story to tell, or wish to receive details of the meeting, write to PO Box 230, Balgowlah, NSW 2093; or e-mail: *aamca@sydpcug.org.au*. FLAC organisers can also be contacted on (02) 9772 3159 or (02) 9665 0257.

Wildlife crisis over corruption

By Simon Benson, Environment Reporter, *Telegraph Mirror*, 30 November 1996

Senior wildlife officials held crisis meeting because of suspicions of endemic corruption within the National Parks and Wildlife Service, newly obtained documents have revealed.

An internal memo from a district manager of the NPWS, obtained by *The Daily Telegraph* shows senior NPWS officers met to discuss claims by experienced rangers that department officers were protecting and illegal trade in native animals.

The memo also reveals concern there might be only prosecutions of minor breaches of the Wildlife Act, allowing more serious offences to go uninvestigated.

Yesterday the ICAC said it might re-examine the allegations even though similar claims went uninvestigated three years ago.

"There is the potential for us to look at this again," an ICAC spokesman said.

The memo, from NPWS district manager Robert Conroy to senior metropolitan staff of the department, proves NPWS officers were dealing with allegations of corrupt activities within the service as recently as 1993.

Among allegations outlined in Mr Conroy's memo were:

> APPARENT "protection" of some fauna dealers [birds] and exhibitors.
> PROSECUTIONS of soft cases only, hard cases apparently not being followed up. Long delays.

In another case, detailed in an internal memo from one NPWS officer to another earlier this year, it is claimed a Sydney wildlife park illegally took koalas from the wild to add to its diminishing collection but investigations had been delayed beyond the statute of limitations.

It is also claimed by a senior department source that entrenched corruption within the NPWS was continuing and being ignored by Government, police and even the ICAC.

Three former NPWS law enforcement officers, contacted by *The Daily Telegraph* have claimed that corruption was well established in the "higher echelons".

Allegations of continuing corruption within the NPWS have been raised before, but until now department officers have refused to comment, apparently for fear of professional and personal repercussions.

John Gallard, a former ranger from the Blue Mountains district who claims to have had his life threatened for trying to uncover corruption within the service, said, "It is organised crime and it is at a high level."

A spokesman for Environment Minister Pam Allan said the allegations had been raised with ICAC.

Whistleblowers on the warpath

From *The Sun*, 19 March 1997

Whistleblowers have started a campaign to expose alleged Government corruption.

They are concentrating their efforts on eight marginal State Parliament seats, including the Blue Mountains, Penrith and Badgery's Creek.

Neil Mayger, of Penrith, is recruiting teams of people to sell a book claiming to detail "wildlife trafficking, cruelty, corrupt government officials causing mayhem, crooked politicians...".

He is determined to force an `open and independent inquiry" into the NSW National Parks and Wildlife Service.

Everybody who buys the book, for $29.50, will receive a monthly newsletter detailing what their MP has done to push the issue.

"If you read this book, you would probably never vote for either Labor or Liberal again," he said.

Mr Mayger believes he was badly treated by the service last year after he was forced to close a hotel in the Snowy Mountains built on land leased from them.

But a national parks official dismissed the book.

"This guy has got a cheap trashy novel and he is very good at promoting it," he said.

The book had been referred to the Independent Commission Against Corruption (ICAC), which had deemed the matters unworthy of investigation.

Environment Minister Pam Allan, whose Blacktown electorate is also a target of Mr Mayger's campaign, said the alleged incidents had not happened under her Government.

"If anyone has any evidence of alleged corrupt conduct with any Government agency, they should go straight to ICAC," she said.

Whistleblowers Australia Annual General Meeting

10.00am Sunday 28 September 1997, at Canberra and South-East Region Environment Centre, Kingsley Street, Acton (Canberra), near the food co-op.

Schedule

- 10.00 Reports of activities during the year, including campaigns, cases of significance, submissions, publications, etc. Reports must be brief. If you d like to give a report, let me know in advance.
- 11.00 Strategy discussions. Following last year s procedure, we will break into small groups to assess 1997 activities and plan future ones. Tentatively, groups will include:
    1. formal channels (including whistleblower legislation, FOI, Protected Disclosures Act, police liaison)
    2. links with other groups and sectors (including lawyers and journalists)
    3. publicity (including leaflets, stalls and links with media) (4) making WBA more internally cohesive and responsive to the needs of members. If you have a strong preference for a group on a topic other than these, let me know in advance.
- 12.00 Policy issues. The recommendations made by the national executive at the June meeting (see separate item) will be presented as motions. If you have other motions, it would be helpful if you let me know in advance.
- 1.00 Election of the office bearers and ordinary members of the national committee. Formally, nominations in writing must be delivered to the national secretary (Matilda Bawden) 7 days in advance, namely by 21 September. Nominations should be signed by 2 members and be accompanied by the written consent of the candidate. In the past, we have operated less formally, consulting beforehand to find suitable volunteers. If you are interested in joining the national committee, it would be helpful to talk with one or more of the current members.

President: Brian Martin Senior vice-president: Jean Lennane Junior vice-president and ILO campaign coordinator: Isla MacGregor Treasurer: vacant Secretary: Matilda Bawden National director: Lesley Pinson Committee member: Alastair Gaisford Committee member and legislation coordinator: Greg McMahon

Formally, there is provision for up to 6 ordinary members of the national committee. Currently, only two positions are filled, namely Alastair Gaisford and Greg McMahon. As well, the chairs of the state/territory branches are members of the national committee. They should be elected at annual general meetings of the branches.

Proxies: A member can appoint another member as proxy by giving notice to the secretary (Matilda Bawden) at least 24 hours before the meeting (i.e. by 10.00am 27 September). Proxy forms can be obtained from Jean Lennane. No member can hold more than 5 proxies.

- 1.20 Close or adjournment of meeting. If necessary we will reconvene after lunch.

Brian Martin

Phone: 042 28 7860 (home), 042 21 3763 (work); fax: 042 21 3452; e-mail: *brian_martin@uow.edu.au*.

Motions for the AGM approved by national committee at its meeting of 14 June 1997

Correspondence to national committee members

Comment: Some members have requested that correspondence from members to the president (and perhaps to other committee members) complaining about other members be shown to the members complained about. Some argue that such correspondence is the property of all the members and should be generally available. A related issue is whether correspondence to a committee member should automatically be sent to other committee members. On the one hand we should be concerned about due process and fair treatment for any member subject to a formal charge and on the other hand we should not be circulating correspondence without permission, whether stated or implied. Practically speaking, it can be onerous for a person in receipt of sizeable amounts of correspondence to be required to make and send copies to 10 other people. Motion: For reasons of practicality, members should not assume that correspondence to WBA or national committee members is routinely circulated within the committee. Members who wish to send correspondence to committee members should do so directly by obtaining a list of names and addresses from any committee member or, if this is not feasible, providing copies in stamped envelopes for addressing and posting by any committee member.

Conflict of interest

Comment: It is important that WBA be seen to practise the high standards that whistleblowers expect of other organisations. One possible conflict of interest is when a member uses interactions with other members to make money or obtain career advancement. Even when there is no formal conflict of interest, there can be an abuse of trust when a member takes advantage of another member s vulnerability and confidences. These issues have been discussed in various professional associations. For example, sexual relations between a doctor and patient or teacher and student can constitute

both a conflict of interest and an abuse of trust. These issues need to be debated in WBA. The best approach is prevention through education. A policy can be part of this process. Motion: The WBA national committee, branch committees and members should take suitable measures to avoid conflict of interest, abuse of trust and misrepresentation. In particular, members should not take advantage of their role as fellow member or confidante to solicit business, clients, special favours or sexual relationships. New members should be informed of appropriate behaviour in this regard.

Register of members

Comment: WBA s constitution currently says that a register of members names and addresses should be open for inspection by any member. However, many members would prefer that their membership and address be only known to officers of WBA on a need to know basis. The Associations Incorporation Act, under which WBA is incorporated, specifies only that names and addresses of committee members be publicly available. This motion changes the constitution to require only that information about committee members, rather than all members, be generally available. Motion: Section 9 of WBA s constitution shall be replaced by the following: 9. Register of Committee Members (1) The secretary of the association shall establish and maintain a register of committee members of the association specifying the name and address of each person who is a committee member of the association together with the date on which the person became a member. (2) The register of committee members shall be available free of charge to any member of the association on request from the secretary.

Access to membership list

Comment: Assuming that the motion to change section 9 of the constitution passes, it is appropriate to spell out who should have access to WBA s membership list. Motion 1 reflects current practice and motion 2 is an alternative. Motion 3 allows members to decide what, if any, information they are willing to have distributed beyond the secretary and treasurer (who, by the nature of their duties, must have information if someone is to become a member at all). Motion 1: WBA s full membership list is available only to members of the national executive and the state listings are available to members of relevant branch executives. Motion 2: WBA s full membership list is available to members of the national committee under the proviso that the list is not distributed, copied or allowed to be viewed by any other member or person. Motion 3: Members henceforth have the option of allowing or disallowing circulation of their information on the membership list beyond the national secretary and treasurer.

Searching for motive is dangerous

By Tony Harris, NSW Auditor General

The Audit Office has received very few protected disclosures, either in absolute terms (20), or relative to those received by the ICAC and Ombudsman (373 and 130 respectively).

This is probably because no Government or person can operate at a level of perfect efficiency and waste is ever-present. It may thus be difficult for public officials to distinguish "normal" waste from "substantial" waste.

But as meagre as our comparative experience is, we have seen that a number of protected disclosures come from officers who are, or have had, differences with their management. This is, in some sense, entree predictable. If management were receptive to the observations being made, those making the disclosure would not need to come to the Auditor-General.

There might also be protected disclosures made by officers who, for reasons entirely unrelated to the matters disclosed, are subject to disciplinary proceedings. some of those officers may see that the making of protected offers a shield from those disciplinary proceedings.

The Ombudsman is aware of these issues and is developing a proposed approach to them.

I do not wish to cut across the Ombudsman's work on this, but as I have said before that when we examine protected disclosures, we should do so without hypothesising about the motives of the person making the disclosure. (I understand that the Act allows an investigating authority top decline to investigate a disclosure if it is made on frivolous or vexatious grounds, but that is where there is little evidence provided to support the claim.)

There are dangers in searching out motives; motivation can ordinarily be quite a complex matter. And motives need not be relevant in any way to the allegation or disclosure being made. A person can lodge a protected disclosure from the highest of motives or from the most base of motives, without there being one iota of difference to the information disclosed.

What matters is the information provided: its completeness; its relevance; its accuracy; and our capacity to substantiate it and to develop findings and recommendations from the information.

An example of the problem about second-guessing motives can be seen from recent media reports about a case of assault on a child alleged to have occurred many years ago. the child complained to authorities who reportedly discounted the complaint because the child was imminently leaving the institution and was perceived to be bitter. It would have been rather better for the many children who, it is alleged, were subsequently affected by the charged person. had authorities examined the substance of the complaint without hypothesising on its rationale.

There may be occasions when the person making the protected disclosure has faced the prospect that it will cause severe differences with management. In most circumstances management, because of its position of power, has the primary responsibility to avert or to alleviate those potential differences. To do this

successfully management has to see these disclosures as opportunities rather than threats.

Where management disagrees the (truth of) disclosure, it should make its case on its merits rather than attacking the messenger. Where management tries to suppress the disclosure or to question the motives of the person making the disclosure, it does a disservice to itself, to the organisation and to all of the organisation's employees. This also amounts to a disservice to the public which management is trying to serve.

Editor's note*: It's a pity that Bazza, unlike Mr Harris, in his attacks on `whistleblowers' appears to focus sometimes entirely on motives. Just think about how much corruption he could have found if he focussed more on the allegations!*