

# The Whistle

Newsletter of Whistleblowers Australia Inc  
PO Box U129, Wollongong Uni NSW 2500

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## Media Watch

From *U.S. News & World Report*, 2 November 1998, p. 48

### **How to really make a killing in health care: the rewards to whistle-blowers soar**

Pamela Sherrid

Terry Fletcher, a former service representative at a medical lab in Maryland, collected \$1.3 million. Brent Hicks, a computer executive at a Blue Shield company in Pennsylvania, and his wife, Linda, a former Blue Shield employee, received \$2.5 million in

September. And Evelyn Knoob, who used to be the mailroom supervisor of Blue Cross and Blue Shield of Illinois, stands to collect \$21 million within a few weeks.

No, Fletcher, Hicks, and Knoob aren't the latest Powerball winners. They're former and current health care employees who blew the whistle on their employers for bilking the federal government's Medicare program. And the biggest rewards may still lie ahead. Last month, the government joined a whistle-blower suit against hospital giants Columbia/HCA Healthcare and Quorum Health Group. That suit alleges a huge scheme by more than 200 hospitals to rip off the government over a period of 14 years by submitting false expense reports. With perhaps a dozen other whistle-blower suits against Columbia HCA looming, analysts predict that the beleaguered company may have to pay more than \$1 billion to the government in total. The possible share to the whistle-blowers: a hefty \$150 million.

With payoffs climbing to levels that would make even American Family Publishers Sweepstakes spokesman Ed McMahon blanch, critics fret that the government is overcompensating employees for ratting out their companies. If out-sized rewards precipitate an epidemic of whistle-blowing, they say, it could even work against the public interest. "Whistle-blowers are more like bounty hunters than sheriffs," says James Blumstein, director of the Health Policy Center at Vanderbilt University. "The profit motive gives them an incentive not to overlook even the most benign technical violation of the Medicare rules." For example, providing doctors with free doughnuts in a hospital cafeteria might be considered a violation of antikickback rules.

Still, few dispute that the rewards are helping to root out fraud in the nation's \$1 trillion health care system. Besides, the government is recovering far more money than it is meting out. "It's shortsighted to say that's too much money to give to whistle-blowers," says Lisa Hovelson, executive director of Taxpayers Against Fraud, a nonprofit group. "For every 15 cents the whistle-blower gets, the government gets 85 cents."

**Old remedy.** The law that gives private citizens compensation for fighting fraud against the federal government dates from the Civil War, when President Lincoln needed a tool to combat war profiteers. The False Claims Act was rejuvenated in 1986 when Congress was looking for a way to curtail malfeasance in defense procurement (remember \$500 toilet seats?). Amendments increased the fines a company must pay and upped the percentage of the government's recovery that whistle-blowers could receive, setting a minimum of 15 percent and a maximum of 30 percent. Since then, the number of whistle-blower suits has increased dramatically, from 60 in 1988 to 534 last year; and recoveries to the government have swelled from \$355,000 10 years ago to \$625 million last year.

Recently, health care providers have pushed aside defense contractors as the No. 1 target for whistle-blowers. In 1987 just 12 percent of federal whistle-blower suits involved health care; this year 60 percent do. The shrinkage of the defense industry explains part of the shift, as do improved watchdog measures. Meanwhile, health care spending has boomed and complex federal regulations

for billing Medicare present a tempting opportunity to unscrupulous executives.

**Many hardships.** The big payoffs to whistle-blowers tend to come after years of extreme stress, both emotional and financial. Evelyn Knoob, who saw her boss at Blue Cross of Illinois shredding claims so the company could pretend they were never received, was forced out of her job, a common experience despite provisions in the law that are supposed to protect whistle-blowers from employer retaliation. Former co-workers in her small town in southern Illinois shunned her. Many whistle-blowers can never find another job in their field. "Employers say, 'I'm sure he's a patriot, but I don't want him working here'," says Marc Raspanti, a Philadelphia lawyer who tried to find a job for a whistle-blower client.

But life is easier for whistle-blowers in one regard these days--they are much more likely to find high-powered legal help. Typically lawyers representing a whistle-blower get nothing if their client strikes out, but 30 to 45 percent of the award if they win. Thanks to the growth in multimillion-dollar whistle-blower awards, lawyers have placed TV ads in Nashville, home of Columbia HCA, trolling for employees who have witnessed fraud at a health care company.

As the payoffs to whistle-blowers mushroom, employees may seek jobs at health care companies with the express purpose of ferreting out fraud. Faced with an infiltration of profit-seeking vigilantes, the health care industry may finally be forced to clean up its act.

From *The Mercury* (Hobart), 15 January 1999

## **Student exposes spying plans**

Matthew Rogers

A HOBART university student has unearthed secret Federal Government plans to let Australia's top spy agencies hire computer hackers to break into the PCs of suspects.

Former Hutchins student Nick Ellsmore stumbled on the plans in the State Library in Hobart.

The 19-year-old information systems and management student was researching an assignment on Australian cryptology restrictions when he found the secret Government report.

It was written by former ASIO deputy director Gerald Walsh in July, 1996. The report warned that publicly-available encryption programs made it impossible to track criminal activity using computers and called for the Australian Federal Police, ASIO and the National Crime Authority to be given wider powers to crack the codes.

It said improved technology rendered law agencies almost powerless and recommended inserting codes into programs allowing keystrokes, including passwords, to be recorded.

Uncensored copies of the Walsh report were inadvertently sent to university and state libraries around Australia before Canberra banned its publication for reasons of "national security, defence and international relations".

Aware of the background to the Walsh report, Mr Ellsmore immediately alerted privacy campaign group Electronic Frontiers Australia to his discovery, which posted the unabridged report on its Internet site and sparked a national media sensation.

"I found it in the library about a month ago--it had been sitting there since the first print run in about October, '97," he said from Sydney yesterday, still shocked by his find.

His discovery comes as a major embarrassment for the Federal Attorney-General's office, which is now scrambling to find if any other top-secret reports have accidentally been released to libraries.

From *The Sun-Herald* (Sydney), 15 November 1998, p. 37

## **Cops' peers punish those who speak up**

Darren Goodsir

COMPLAINTS of harassment by police whistleblowers have fallen by 25 per cent in the past year, it is revealed in a landmark report on the secret internal witness support program.

But more than half of all officers who allege their colleagues are guilty of corrupt behaviour are still singled out for subtle peer punishment such as being excluded from good job opportunities or penalty shifts.

The confidential report on the internal witness security program, obtained recently by *The Sun-Herald*, says that although "harassment by senior officers was totally absent" in a 1996 survey, "in this study it has returned".

The report by the St James Ethics Centre found that 93 per cent of whistleblowers were satisfied with support services and their safety--with more than 97pc of affected officers saying "they would report misconduct in future and register again".

But the report recommended further education of sergeants and more senior officers to help stamp out internal corruption.

"Although fewer people are being harassed than before the program was set up, when they are harassed, more is happening to them," confirmed the report delivered to police commanders.

"The most worrying trend in this area is the complicity of senior officers in the harassment.

"In the short term, it is probably not possible (for commanders) to prevent the social kinds of harassment: isolation, ostracism. However, it should be possible to prevent verbal and physical

abuse and harassment, threats, unfair assignment of duties, unfair exclusion from remuneration and so on."

The St James Ethics Centre first reviewed the police program, designed to protect officers who report corruption, in late 1996.

The latest study sought to compare the health of internal witnesses to that of a control group, and to a group of officers against whom they had complained. Data was collected on rates of sick leave, worker compensation claims, medical discharges and the use of welfare, psychology and rehabilitation services.

The report concluded the program was well designed--almost without peer in the world--but recommended greater resources for country areas because rural whistleblowers felt isolated and vulnerable.

A police spokesman said it had been decided that no response would be made to the findings.

From *The Australian*, 26 November 1998, p. 6

## **Whistlers blown out**

Belinda Hickman

NSW's anti-corruption commission is examining complaints that whistleblowers in the State's public service were being forced into medical retirement.

A spokesman for the Independent Commission Against Corruption yesterday confirmed the body was examining a number of workers who had been assessed as unfit to work by HealthQuest--a self-funded organisation operated under the Central Sydney Area Health Service, which is part of the State's health department.

It came as about 50 people joined a protest outside NSW's Parliament House yesterday, organised by Whistleblowers Australia to highlight their concerns.

A Whistleblowers spokeswoman said the organisation had received about 30 complaints from police and fire services and TAFE employees alleging HealthQuest had used false psychiatric assessments to recommend they be medically retired.

The spokeswoman said the assessments were being used to silence and discredit whistleblowers who spoke out about corruption, and allowed public service employers to medicalise what were essentially administrative problems.

HealthQuest was established in 1963 to provide occupational health management, promotion and assessment services to government and private sector companies. It handled almost 19,500 consultations last financial year.

## **Doctor out for butchery**

LONDON: The medical profession was in the dock last night after a leading gynaecologist was struck off for effectively butchering a series of women during surgery.

Consultant Rodney Ledward, 59, ruined the lives of at least nine women by botching routine operations.

Many were left with massive damage to their internal organs.

Last night there were calls for tighter policing of surgeons after it emerged that, despite a series of disastrous mistakes, he was allowed to continue for at least seven years before the alarm was raised.

It was a colleague who finally blew the whistle on Mr Ledward, rather than bosses at two hospitals where he worked.

No one acted earlier despite his breathtaking disregard for his patients' rights.

## **GILC statement on the 50th anniversary of the Universal Declaration of Human Rights**

Global Internet Liberty Campaign  
<http://www.gilc.nl/>

Fifty years ago [10 December 1948], the nations of the world affirmed their commitment to protect and promote human rights in the Universal Declaration of Human Rights [UDHR].

Understanding that "recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world," the nations of the world committed themselves to protect the rights of privacy, equality, human dignity and freedom of speech. As we approach the fiftieth anniversary of the Universal Declaration of Human Rights, it is essential that the international community reassert its commitment to respect and promote human rights regardless of physical borders.

The rights cemented in the UDHR are as essential, and as threatened, today as they were fifty years ago. The undersigned organizations, members of the Global Internet Liberty Campaign, would like to remind the citizen nations of the world of the guarantees of freedom of expression and privacy enshrined in the UDHR.

Article 19 of the UDHR provides that "Everyone has the right to freedom of opinion and expression...through any media and regardless of frontiers." However, governments continue to restrict expression on the Internet. In China, software dealer Lin Hai is awaiting sentencing for releasing 30,000 email addresses to a

dissident group in the United States. Civil rights groups in the United States are fighting a court battle against a law dubbed Communications Decency Act II, which would restrict access by adults to online content.

Although Article 12 of the UDHR states that "No one shall be subjected to arbitrary interference with his privacy..." governments around the world seek to monitor and intercept communications on the Internet and elsewhere. Recently, under pressure from the United States, 33 countries in Europe, North America, Asia, and South America agreed to limit the exportation of mass-market software that would protect the privacy of Internet users. This software, which scrambles data so that it can only be read by its intended recipient, is widely used by human rights groups, including GILC members, to ensure the safety and integrity of sensitive information. In Singapore, all Internet service providers (ISPs) are controlled directly or indirectly by the government and in Russia, a proposal is being debated to connect all ISPs via a black box to the Federal Security Service to monitor all Internet communications.

The Internet holds the promise of being the greatest tool for communication and freedom of expression. The undersigned members of GILC encourage the governments of the world to recognize and promote this potential in accordance with the principles of the UDHR. The undersigned members of GILC also encourage the governments of the world to avoid restrictions on any software that protects the privacy of an individual's communications.

American Civil Liberties Union (ACLU)  
<http://www.aclu.org/>

Bulgarian Institute for Legal Development  
<http://www.bild.acad.bg/>

Center for Democracy and Technology  
<http://www.cdt.org/>

Derechos Human Rights  
<http://www.derechos.org/>

Digital Freedom Network (DFN)  
<http://www.dfn.org/>

Electronic Frontier Foundation (EFF)  
<http://www.eff.org/>

Electronic Frontiers Australia  
<http://www.efa.org.au/>

FrEE (Electronic Frontiers Spain)  
<http://www.arnal.es/free/>

Electronic Frontiers Texas  
<http://www.eftexas.org/>

Electronic Privacy Information Center  
<http://www.epic.org/>

Equipo Nizkor  
<http://www.derechos.org/nizkor/>

Förderverein Informationstechnik und Gesellschaft (FITUG)  
<http://www.fitug.de/>

Human Rights Watch  
<http://www.hrw.org/>

Imaginons un Réseau Internet Solidaire (IRIS)  
<http://www.iris.sgdg.org/>

Index on Censorship  
<http://www.indexoncensorship.org/index.html>

Liberty (National Council of Civil Liberties)

NetAction  
<http://www.netaction.org/>

Privacy International  
<http://www.privacy.org/pi/>

quintessenz e-zine  
<http://www.quintessenz.at/entrance/index.html>

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## **Government shuts down whistleblower web site**

SA's first whistleblower web site has finally been taken off line and branded by the government as a "defamation/ hate" site.

Spokesperson for South Australian whistleblowers, Ms Matilda Bawden, said "It was only a matter of time. I'm surprised we were able to have it up for as long as we did. The truth can be a dangerous thing in politics."

The site which has been in operation since August 1997 has been a frequently visited site by injured workers, legal firms, insurance agents and government authorities. The web site offered experiential and anecdotal information and advice to injured workers and whistleblowers seeking to navigate their way through the legal maze created when a person makes a claim for a work related injury.

Although the reasons for the shut down are not yet known, an earlier attempt at closing it down was made just prior to Christmas



1998, when the site was taken off line for several days. On this occasion, Geocities blocked access to the site after receiving an unsigned letter from the legal firm Johnson Winter Slattery threatening the internet provider, Geocities, with legal action under Section 10 of the Whistleblower Protection Act 1993. This section of the Act can be used to find a person guilty of making false disclosures of public interest information. The letter claimed to represent the WorkCover Corporation, but was sent without any contact name identifying the author or any alleged aggrieved party/ies who claim to be the subject of defamatory/hate material.

Ms Bawden said, "It was a most cowardly act on the part of the government as it provided no opportunity for the whistleblowers to respond to those allegations and threats as contained in the letter". It has since been purported that the reason for not disclosing the author's name is fear of further defamatory/hate material being generated by the group.

"The anonymous source of this letter of complaint to Geocities is typical, and indicative, of the anonymity with which corporate officials and their representatives operate when they carry out their corrupt activities," Ms Bawden said, "But they're not about to come out of hiding now to show their faces. If that was ever their intention, they'd have done it by now."

"It is ironic that whilst the Act has never been used by the Crown to protect a whistleblower, it is increasingly being used by its representatives as the weapon with which whistleblowers will be threatened and intimidated into suppressing their disclosures," said Ms Bawden. "Ultimately, the objective by those authorities has been to shield themselves from public scrutiny and, in turn, liability under the Act."

The whistleblowers' web site was designed to provide public access to growing evidence of massive maladministration and wrongdoing by a Corporation which cannot be held accountable for any illegal activity in any court of law in South Australia. Whistleblowers have exhausted all known legal avenues for exposing corporate corruption, whilst the Commissioner for Public Employment has so far refused to acknowledge, receive and facilitate a series of public interest disclosures alleging maladministration and wrongdoing by the Crown, lodged with his office in November 1998.

[In a similar sort of case, web sites set up in the US by noted Australian author and whistleblower Raymond were to be shut down in January as a result of complaints to the US internet service provider by an individual in Victoria. For more information contact Raymond Hoser at [adder@smuggled.com](mailto:adder@smuggled.com) or 018-588 699.]

## **Articles and reports**

**Whistleblower of the Year award goes to Mr Oliver Clark for his disclosures about**

## **paedophilia in the hierarchy of the churches**

The Queensland Whistleblower of the Year Award for 1998 has gone to a former teacher in the Catholic Education system for his disclosures of paedophiles in that system and other parts of the church hierarchy.

Mr. Oliver Clark is a principal in an informal network of persons in the church and from the community in Queensland who are credited with the conviction and jailing of authority figures in the churches for paedophilia. The network has further exposed the protection and cover up by the churches of these criminals in their ranks.

Mr. Clark thus joins an elite group of past award winners, whose contributions to the community include the disclosures of mistreatment of inmates at the Basil Stafford Centre (1994--Kerry Campbell), the under-resourcing of the Princess Alexandra Hospital (1995--Dr Brian Semewiratne), Shreddergate (1996--Bruce Grundy) and government policies not to enforce environmental controls on large mining companies (1997--Jim Leggate).

The award was instigated by the Whistleblowers Action Group's first President, Mr. Col Dillon, a principal whistleblower in the Fitzgerald Inquiry. The award is designed to acknowledge the courage and integrity of one whistleblower each year, as a public recognition of the value to the community of all whistleblowers.

"The campaign against paedophilia in the churches is one of the few good examples of effective whistleblowing," Mr Gordon Harris, the current President of WAG, stated. "It is a campaign being waged by whistleblowers in network--religious and former clergy, victims, relatives and friends of victims, former students, ex-policemen and others are coming forward and not letting a single whistleblower fight the battle alone."

"And public authorities, especially Operation Argos, are working cooperatively with the whistleblowers--that is a rare achievement for both the whistleblowers and the public authorities" Mr. Harris stated.

"WAG is happy to have been a part of the network Mr. Clark has in place," stated Mr Harris. "Through him, WAG congratulates the network for its immense achievements."

Mr. Clark stated his appreciation of the assistance he had received from Whistleblowers Action Group and Whistleblowers Australia. "Jean Lennane's advice on the psychiatric aspects of confronting the perpetrators of child abuse, and those who protect the paedophiles, has been important to our methods," Mr. Clark stated. Dr Lennane is Vice President of Whistleblowers Australia.

"Critical to me personally was the early advice I received from a WAG officer," stated Mr. Clark. "I was self-destructing, pursuing the injustice done to me. The WAG officer showed me what was happening to me, and suggested to me the way out. He convinced me to focus my need for justice onto an injustice in the same

system that I could affect. I took that advice and I am thankful for it."

Mr. Clark added, "WAG was there too when others were most hostile to me. Among the many actions of assistance I've received, I remember and value WAG's support. Your group fills a vital role for community action against corruption in our institutions, and your award is most appreciated."

PRESS RELEASE AUTHORIZED BY MR G. HARRIS  
PRESIDENT WHISTLEBLOWERS ACTION GROUP (QLD)  
INC

For further information ring Mr G. Harris on 0419 724 502

## **Professional misconducts: research under WB's scrutiny**

Karl H. Wolf, B.Sc., Ph.D., D.Sc.

*Research Misconduct: Issues, Implications, and Strategies*, edited by Ellen Altman & Peter Hernon, 1997, Ablex Publishing Corporation, London, England, and Greenwich, Connecticut, USA, 206pp; paperback either 25.00 pounds sterling or US\$39.50; and cloth edition either 47.00 pounds sterling or US\$73.25.

**The book.** The above book refers explicitly several times to whistleblowing (WB hereafter), while dealing in eight chapters and seven appendices selectively with 'research misconduct' (RM) perpetrated by various professions; thus, supplementing many articles in *The Whistle*. Altman/Hernon's information is based on publications of several sciences, especially medical/health plus pharmaceutical disciplines, several humanities (e.g. historical re-inventions), etc. The topics covered include: magnitude and skewed distribution of RM and reasons thereof; definitions-cum-explanations of RM; allegations made to funding agencies; why be concerned; remedies/mechanisms to counter RM; widespread resistance to punish RM; environments of science & scholarship; mockery to the scientific norm; reward system must be modified; government oversight; other countries' RM; scientists' response; advocacy research; editorial and peer-reviewing process; integrity and RM of scholarly literature plus examples of literary contamination; cleansing the literature; influence of WWW/Internet; student and faculty perceptions of RM; teaching information-literacy and awareness of RM; implications of RM for bibliographies and librarianship; maintaining the Public Trust; and so forth. The appendices provide many RM-cases, a long list of journals dealing with RM, RM-surveys for social investigators, and *Codes of Ethics and Guidelines* for researchers. The references are an invaluable introduction to publications on RM, although by necessity many media and professional publications were ignored. (A list is available on request.) The book deals chiefly with 'RM knowingly, purposively, and pro-actively perpetrated,' but ignores for example 'RM imposed on others who became involuntarily involved--often against their will.' Also, when expanding the definition of 'research' (see below), many other styles of

'professional misconducts' and whole categories of wrong behavior have been ignored. Much has been left for future investigations!

Although some suggestions were made on procedures to reduce or even eliminate RM, the identification of contributing factors and motivations leading to RM could have been treated at greater depth. For example, in general, each research project must be founded on clearly outlined objectives, time/space and infrastructure requirements, and responsibilities/accountability of all researchers and others involved. Specifically, as to 'degree of involvement' of any individual, each researcher/author should sign a form stating the particular contributions made when submitting reports, manuscripts, etc. Novelty in research is over-emphasised; testing/checking/repli-cating should also be rewarded in crucial cases, this philosophy to be used in training professionals. Many editors and referees, among others, must be more experienced, more careful, and more demanding.

**Important caveats.** (1) All disciplines involved in RM have in the past made unforgettable invaluable contributions; this must not be forgotten when debating the lesser-occurring misconducts. 'Outsiders' may be needed as WBs to delve deeply into RM of any particular profession; as exemplified by the authors who are librarians-cum-information experts. Are they, consequently, 'untouchable' by any profession's potential 'retaliations/retributions/vengeance'? (See the fate of so many WBs described in *The Whistle!*) (2) Ethics/morality of RM has not been fully discussed; it is a vastly and complexly different, although supplementary interrelated, topic. (3) The book deals only superficially with 'research methodology' that comprises philosophies, techniques, procedures, use or misuse of equipment, etc. (4) The reasons/causes of RM were likewise treated insufficiently. NOTE: A list of publications of all these topics is available on request. (5) The researchers were not able to find reliable statistics on the 'extent of RM' in the various professions; hence, the query remains unanswered as to whether one ought to believe in the 'bad apples theory' or 'iceberg theory.' However, they found 'qualitative' (including anecdotal/ hearsay) evidence that (a) certain disciplines are engaged in more RM than others (e.g. medicine and pharmacology more than physics or mathematics, for instance); and that (b) it is much easier to identify RM in some professions than in others (e.g. sciences vs. psychology), because of vast differences in their methodologies' efficacy and efficiency. (6) The book's authors were hindered, no doubt, by (a) restriction of page numbers; (b) absence of broader experience in the sciences and other disciplines; and (c) absence of easily available information. Hence, the potential for numerous future RM-research projects. Also, a book summarising WB-activities, public hearings, and defamation suits related to RM would be welcome.

**The book's coverage.** The authors have preferentially, so it seems, concentrated on RM perpetrated by the health or medical (including pharmacological) professions. However, chemists get a good intellectual ripping as well; and psychologists/psychiatrists (behavioural scientists), sociologists, historians, humanists, geologists, biologists, physicists, computer experts, engineers, professors/faculty and university administrators in general, and government bureaucrats are mentioned also. Numerous famous-

cum-infamous people, accused of RM, are cited, including Nobel laureates, Martin Luther King, Jr., Louis Pasteur, and our own Dr. William McBride, among others.

**RM-phenomena.** The following are mentioned in the book: plagiarism, forgeries, faking, deceptions, artifacts, fraud, authorship-assignment procedures, unethical co-authorships (i.e. enforced or imposed, fictitious, honorary, gift-types), citation manipulation, fictitious collaboration, CV-misrepresentation or padding (i.e. falsifying credentials), conflicts of interest, dis-/mis-information, counterfeit facts, tainted research, lack of inter- and intra-departmental cooperation, obstructing/harassing associates, petty jealousies, editorial responsibilities and integrity, peer-reviewing and refereeing dilemmas, errors vs. genuine RM, false claims of various types, freedom to lie, imaginary/non-existing and fudging data, incomplete or obsolete data, data trimming/cooking, ignoring or preferential use of important information (improper data-selection), not acknowledging sources, cover ups, intellectual property, mis-/dis-computerisation, least-publishable units (i.e., 'salami' publishing), malpractice, mentor-principal researcher relations, misappropriation, self-correcting concept of disciplines not sufficient or absent, out-sourcing problems, inflated or false billing, playing cops, priority claims, testing/replicating of scientific vs. humanity-type research results, retraction and correction of RM data (voluntary and enforced), trust, and truth. 'Errors, carelessness, and sloppiness' do not constitute RM--thus are they phenomena to be used as unacceptable excuses?! All the above must be contrasted with 'inadvertent, or accidental or unconscious, without-malice-type RM.'

Future studies must establish which of the above terms are synonyms, near-synonyms or analogous, in contrast to those representing genuinely different concepts. (Even knowing their antonyms would be useful.) We ought to construct a continuum/spectrum from 'white, super-honest research' at one end, through various shades of 'light-gray, minor misdemeanors' and 'darker-gray, unethical, professional RMs,' to 'black, illegal, even criminal, RMs.' For each an unequivocal, logical terminology should be identified. More linguistic/semantic research as a basic first step is needed.

**Definitions needed.** The above list of deleterious and related phenomena unequivocally indicates that a definition of 'misconduct' is required; indeed a precise explanation of 'research' and even of 'science' may be necessary as well, depending on conditions, because these three words are in reality conceptually and practically collective (or group or umbrella) terms, each of which cover many other words with various shades of meaning. Altman/Hernon have engaged in the 'definition-enigma' several times; sufficiently for their purpose. However, any researcher of the numerous styles of RM, as actually and potentially perpetrated by the various professions/disciplines, must for specific purposes define/explain at least these three concepts. For example, during legal debates these three terms must be given exact definitions. WBs must be aware of all these intricacies.

Using several dictionaries, including the superb *Webster's New Dictionary of Synonyms* (1984) and the *Roget's Thesaurus*, the

word 'misconduct' can comprise, in addition to the above-mentioned, 'dishonesty, deceitful conduct, malversation, malfeasance, misdemeanor, misbehavior, misdeed, mismanagement, creative data-accounting, malpractice, sham research, misleading/delusive/delusory act, lying, cheating, stealing, swindling, unskilful and crooked act, botched or bungled job,' etc. Even 'lack of cooperation,' 'intellectual and physical obstruction,' 'petty jealousies,' and 'harassment,' among others, could be part of RM. This spectral meaning of 'misconduct' is highlighted by *Roget's* four-fold division.

The same argument applies to 'research.' Absolutely, see *Webster's Synonyms (1984)* which compares/ contrasts 'research, search, investigations, exploration, inquiry, probe, inquisition, and inquest'--each can have a slightly different twist in meaning, which may be significant in precise RM-research.

As to the definition of 'science,' there are quite a few problems as its meaning has been bastardised over the past centuries. We must distinguish between basic/fundamental sciences (e.g. physics, mathematics), derived/hybrid sciences (e.g. geology, environmental disciplines), social sciences, behavioural sciences, economic-forecasting science, even theology as the 'science of God,' etc. The degree of 'scientificity' (ability to find evidence and potential of reproducibility, possibility to apply mathematics and computers, and many other approaches used during applying 'the scientific method') varies from one extreme to the other between (even within) these numerous 'hard' and 'soft' disciplines. And then there are the just-mentioned genuine/orthodox (evidence-based) sciences and disciplines in contradistinction to the pseudo-, proto-, frontier, meta-, faith-based, and crypto-sciences and disciplines. Also, there are the pure and applied research types; the latter divided into problem-oriented, goal-oriented, developmental and operational; not to forget speculative, confirmative, piecemeal vs. holistic, analytical vs. synthetical, interpretive and extrapolative/predictive, and post-/retrodictive research philosophies. Some investigators concentrate on causes, others on effects, or on cause-effect relationships. Remember also that while applying the scientific method, a researcher passes through several stages/phases and social environments influenced by many variables, each milieu with its own RM-potentials. (Details available on request.) The involvement of WBs likewise will vary greatly.

The importance of defining the three above terms in the context of studying RM lies in the fact that the many variations in defining 'misconduct,' 'research,' and 'science' (and many combinations of the three groups of definitions), when applied to the numerous different professions, takes on a different conceptual and practical aura, i.e. the whole philosophy of both honest and deleterious activities changes. The phrase 'scientific research misconduct' can be applied either logically and ethically, or misapplied deleteriously or maliciously, depending on the various definitions of each word as well as on the social and/or research conditions.

**Reviewer's exposure to RMs.** Accepting the open invitation by *The Whistle* to offer personal experiences (in the present case mostly good, but some bad; proof available; some illustrating RM-

styles ignored by Altman/ HERNON), and especially to demonstrate my 'knowledge by authority' in regard to RM-phenomena, let me merely list some exposures during world-wide activities as professor, teacher, researcher, editor (of four referred international journals and twenty books), consultant, and explorationist.

Here, then, the RM-encounters: bullying by colleagues; harassment and personal plus professional vilification; Machiavellian duplicity; hypocrisy; character assassination; manipulation of students and staff; wrong 1962-claim of plagiarism, i.e. allegedly using company's confidential concept, when in reality writer had already developed modified concept during 1956/7 Canadian undergraduate years--i.e. modified a classification previously offered during 1948-1951 by a well-known American scientist who freely widely distributed copies of his ideas (see Geological Note in *Bull. Am. Ass. Petroleum Geol.*, 1960, v.44, 1414); not acknowledging my published ideas (cf. book-review on Coated Grains, *Sedimentary Geology*, 1985, v.43, 301); plagiarising of my ideas from research proposal submitted to a fund-reviewer (i.e. ideas first expressed in several of my publications; then submitted to research group to be tested in Florida's neo-marine environment); editorial responsibility to identify and WB on author who submitted allegedly stolen data (e.g. chapter in *Diagenesis V. II*--pulp of all already-published volumes was demanded, but prevented through legal consultation: two editors had absolutely no pre-publication knowledge of this RM and thus no responsibility!); unethical/unprofessional use of re-interpretation of some of my published ideas in evaluating tenure, etc. (i.e., *Sedimentology*, 1965, v.4, 113-178 vs. *Geological Society of America*, 1976, v.87, 515-530); purposive mislaying or destruction of important documents in Canadian university (e.g. 'letters of agreement'); unethical use of irrelevant information in various professional judgements; unprofessional withdrawal of appeal mechanisms; inappropriate claims of being over-qualified (e.g. two American universities and Australian government); agreement broken by 'world-renowned' ANU researcher to review five expensive books for international journal (he refused to return books); research director demanding from me (as chief editor) not to make scientific corrections but only linguistic ones (I totally ignored that idiotic 'order'--make such a demand of an architect or a dam-civil engineer and imagine consequences!); pressure by colleagues at a Canadian university to concoct deleterious story to help in refusing tenure to another colleague; repeated changes in priorities by so-called superiors that resulted in denial to satisfactorily complete research projects (numerous cases); unethical withdrawal of infrastructure, including equipment; unethical demands by BMR/AGSO's so-called supervisor demanding to be listed as co-author when absolutely no contribution was made by him; harassment by 'emotionally disturbed' super-(sub-?)visor who has for decades been off-and-on under psychologist's 'guidance' for emotional problems; fudging research proposal (e.g. by manipulating research-topic terminology); manipulation of teaching vs. research vs. administration duties; seduction of researcher's wife to break up his marriage and through it destroy him professionally (apparently not a Bob Ellis-type rumour!--the plot was only partly successful: my acquaintance got a divorce and moved to another university in another country, yet his scientific output was unaffected); and denying of research funds because of previous research

publications being 'merely overviews/summaries' (when it can be proven these to have been great international contributions e.g. Canadian Professor Peter Laznicka's numerous volumes). More cases could be listed!

## Dialogue and debate

### On surviving work abuse

David Obendorf

I'd like to respond Brian Martin's article on 'Surviving Work Abuse' (Nov 98 p 14). Whilst I haven't read the book, *Work Abuse: How to Recognize and Survive It* by Judith Wyatt and Chauncey Hare, I do have personal experiences in attempting to 'survive on the job' in the face of sustained personal and professional attacks. And yes, I too attempted the 'other alternatives' in confronting management rather than making a formal complaint or going public.

Its now some 20 months since the resolution of my whistleblowing case. Brian's article, I must say, left me with somewhat confused. I understand that with the benefit of hindsight and perhaps the wisdom of an erstwhile whistleblower, I might have been able to see different ways to act or express myself, ... perhaps I could have used different techniques to get my message across, apply different strategies and even adopt alternative behaviours to react to or cope with the onslaught which was to be thrown at me. After all I did have a period of 12 months in which to not only 'survive' and keep working, but also to become street-wise to workplace abuse. In the eyes of some perhaps I failed but then maybe I'm not the only one and ... just maybe there are valid explanations.

Yes I lost--my full time job, my career, peer-group credibility and aspects of my private life were exposed with even my children bearing the brunt of discrediting innuendo and gossip. And yes I was subjected to several psychiatric referrals, withstood the humiliations of applying for other positions within the organisation in which I worked, felt thoroughly devalued during 26 months 'in limbo' on workers' compensation and suffered prolonged stress by attempting to use our 'system of justice and fair play.'

Certain individuals may have the insight to 'develop personal skills to understand the situation, change their emotional response and rehearse new behaviours.' If that is achievable, does that make WBA an organisation for the failed, the fool-hardy and the unsuccessful?

Maybe I was always a 'whistleblower-waiting-to-happen'! Unconsciously was I activating my 'cims' response against the 'norms' of my employer organisation? Was I wanting 'to change the situation of my workplace rather change myself.' Perhaps that's where I went wrong. I really needed to change, but into what? ... a corporate in-fighter, a counsellor for my workmates in a toxic



workplace, a clandestine destabiliser or even anonymous undercover agent.

Did I really feel shamed? Did my organisation feel shamed? Was it my 'cims' response that made me behave the way I did? And if so were the culturally entrenched 'norms' of the organisation so rigid that it had no alternative but to act the way it did?

It seems to me that in a general sense both parties, the worker and the organisation, must learn from workplace abuse incidents in order to change. In seeking a resolution after a shaming confrontation both parties must appreciate this common need. In reality it rarely seems to work that way. The individual who decides to act on an issue which could directly challenge the organisation is perceived as the easy target against the might of an organisation--shoot the messenger and deny the message. Perhaps the corporate in-fighter's handbook tells the organisation that in the majority of circumstances harassment, abuse and discreditation works. What is the impetus for any organisation to change its traditional tactics against the dissident worker? And even if such an individual worker did not get 'caught up in toxic behaviours at work' and was able 'to emotionally separate oneself, maintaining integrity internally and helping to survive and promote beneficial change,' what guarantee is there of any ethical, just or altruistic outcome?

In my situation I believe that were I to have adopted such approaches the status quo would have been maintained and could well have been seen by management as a signal to increase bullying behaviours on other staff.

Perhaps it will become in vogue to teach prospective employees about 'empowered awareness' and 'strategic utilisation' so that they never become abused workers. I do wonder how a retrospective re-run of various whistleblower scenarios involving blatant criminality, such as fraud or corruption, and cases involving entrenched mismanagement, maladministration and organisational deceitfulness could be successfully rectified by the adoption of these techniques alone.

As a survivor of sorts, I feel that no form of handy hint book could have prepared me for what I experienced.

## **Professions and power**

Rose Hylton RN

There is a strong affinity between "elitist" vested interests within political, legal, medical and bureaucratic objectives where self-regulation is permitted to continue that have nothing to do with justice or the public interest and when/where more tribunals are becoming the norm to, in reality, gag and muzzle access to *true* democracy for any client/victim of any "elite" professional abuse and/or deliberate negligence when/where criminality eventuates/exists.

The police royal commission only touched on the above due to the usual "limited" terms of reference and where the 1990 royal commission findings concerning the Chelmsford "criminality" has never been adequately dealt with on all victims behalf in the legal/court arena by unbiased experts. By comparison exist the ordeals of those who never reach a court of law and where another example has been published in the 14 November 1998 *Sydney Morning Herald* "Good Weekend" magazine.

Nurses, especially those in private practice, are open to investigation and judgement by all *unlike* those who are granted access and employed within the "elitist" professions and/or government institutions. I have yet to know of even one e.g. obstetrician/gynecologist etc. willing to legally support any victim of "elitist" (specialist) professionals within medicine who have been and deliberately abused and further neglected within a *public* institution which the legal system to date, represents in the main, the wealthy and/or powerful in this alleged democracy.

The recent outcome of one Homebirth midwife in NSW is indeed terrifying for *all* women of childbearing age from the valid aspect that women will once again be forced to endure the usual male-controlled birthing process (some would refer to it as intervention by certain medical technicians who are erroneous and where those, who are ethical/caring etc. *fail* to protect women from the latter misfits due to the fear of being labelled "whistleblowers" and the now well known repercussions accordingly). Deliberate denial and neglect still exists to instigate within all public hospitals "birthing centres" (with full access for those within the homebirth movement when/where sought/required) by those with *vested* interests that "conflict" with many female client/patient's wishes and needs where *all* midwives are involved and concerned, which can also be instigated at "minimal monetary expense."

I would be one of those women who would have for many valid reasons pressured e.g. Ms. Maggie Lecky-Thompson to attend my pregnancy and childbirth until full medical treatment had been completed upon my person *had* I had more children, however, due to the horrendous abuse of my person both physically as emotionally, I never desired to have another child and would never again have attended a *male* obstetrician/gynaecologist and/or institution "without" the full attending support of an "independent" midwife at the very least. I was one individual who fought and hard via paediatricians as otherwise to have e.g. fathers and loved ones, even a close friend or two, to be permitted to attend hospital institutionalised births in an attempt to protect others *from* my type of enforced ordeals.

The AMA and medical practitioners such as Dr. K. Hollebone are fully aware of many of the methods used, to prevent victims like myself from having unbiased access to a court of law and this includes access to *true* justice, whilst at the same time, victims are left and deliberately even for many years, in a traumatised physical and mental state, due to complications endured from the "initial abuse/assault" to and of e.g. my person by a "criminal" within their and his ranks. There are those who knowingly have aided and abetted this "misfit" just as has eventuated to and of I believe, many others and not only within the psychiatric areas of alleged

"do no harm" ethos claimed to exist within medicine. Victims like myself do not suffer from any form of e.g. medical xenophobia and/or mental delusions under psychiatric stereotyping etc. and nor do legal advisers jump in to encourage litigation as claimed in such ordeals like my own, although it is a "human right" to seek access to true justice but a myth in NSW.

It is only when a professional offends a more senior elitist/power objective/broker that s/he is vulnerable to e.g. de-registration from his/her profession which has nothing to do with client/patient ethical care within this society. In reality, it is those with client/patient xenophobia who will attempt the usual negative and slanderous stereotyping in behaviour response/s, whilst keeping the *true* victim/s e.g. ignorant and/or obstructed from alleged to exist full legal rights.

## **Punishment of whistleblower confirms farce of Euro Parliament**

Keith Potter

Paul van Bultenen, an assistant auditor in the Euro Commission's financial control unit, provided a 34 page dossier on fraud to leaders of the Green group of the Euro Parliament. It apparently pointed to two socialist members of the Commission. Paul was suspended on half pay the day after Parliament refused to pass accounts because of mounting concerns about corruption and financial mismanagement.

Senior Commission staff charged Paul with "imparting information to unauthorised and non-competent persons." Concerned senior parliamentarians demanded the resignation of senior commissioners for "outrageous defiance of Parliament."

The leader of Britain's MEPs stated publicly that "To make a scapegoat of someone for doing his public duty shows that the Commission is in a state of panic." He said that the two commissioners in charge of administration and fraud, who were not the targets of Paul's dossier, "had to go." However, Parliament did not have the power to sack individual commissioners. The Green group accordingly pressed for dismissal of all 20 commissioners and that the commissioner responsible for administration should come before the Parliament "to explain the unacceptable decision to target this whistleblower."

The motion to vote no confidence in the Commission was lost in Parliament, apparently rejected by the socialist block whose leader also gave thumbs down to the proposal to reinstate whistleblower Paul.

Paul's fate contrasts with officials accused of corruption. They are routinely suspended on full pay and allowed to retire with pensions intact. [Age (Melbourne), 6 January 1999 & 15 January 1999]

As is so often the case, Australia for example, corrupt bureaucrats proved themselves stronger than Parliament.

Sir Lennox Hewitt insists that loyalty of public servants is to the "Crown." That conveniently vague tradition obviously encourages corruption. Legislation should provide that the first responsibility of public servants is to the Parliament.

Perhaps Whistleblowers Australia Inc. might suggest such remedy to the European Parliament in the hope that our governments will follow.

## **Exploding the myth**

Stuart Dean

If a person makes a workers' compensation claim on the basis of a stress injury it is not uncommon for that person to be regarded as merely doing it for the money. This attitude is common among the general public and is often fostered by the more sensational of the tabloid press and radio shock jocks. It also exists in some members of the legal profession and some psychiatrists, particularly amongst those psychiatrists who accept referrals from insurers.

I would like to make it quite clear that not every psychiatrist will accept referrals from insurers. Some of those who do accept such referrals are regarded with contempt by some of their contemporaries.

Both doctors and lawyers seem to be very good at arithmetic, particularly where money is concerned, but they seem to have a mental lapse in the maths department when they accuse the stressed worker of being on the make.

Let's, for example, take the case of a high school teacher aged 50 and earning \$50,000 a year. If this teacher's health did not break down then such a person could expect to earn in the next ten years \$500,000, not allowing for any pay rises or possible promotions.

Compare this to what one could gain at the Compensation Court after going through the ordeal of a hearing not to mention the indignity of being subjected to the verballing of the hired gun shrinks. For the first six months period one would get your award wage. After that payments drop down to a statutory amount which at the moment is around \$250 per week for a person without dependents. I calculate that this person would earn in the same ten-year period on workers' compensation a grand total of \$149,500. Workers' compensation payments are indexed but I have not allowed for that in my calculations as I did not allow for any wage increases in the lost pay.

Of course the worker could have settled for a lump sum provided it was offered. The top award that I have personal knowledge of is \$60,000. Such an amount would be fine if the worker could immediately start a new career or even some new job. I don't know

any injured worker who has done this. I do, however, know workers whose lives have been shattered and who will never work again. It is strange how you never seem to hear the public, the lawyers or the shrinks expressing any concern about such people. Is it because they don't know or is it because they don't want to know?

The injured worker may, of course, elect to run a common law negligence case in the Supreme or District Court where they would have the additional onus of proving negligence and not merely a causal relationship between their injury and their work. However if they lose their case in these venues they could be up for costs. This is not a rosy picture for someone who is now unable to work. Having lost their job they could now be in danger of losing their house. This is a time when it pays to be an impecunious party (stony broke). The other side has the luxury of access to the bottomless pit of public money to fight you and therefore has no objection to the case being strung out.

Some workers lodge a claim, go part way through with it but when it gets all too much for them withdraw their claim and just disappear into the vast void of social security, no doubt to be labelled as parasites and bludgers by our esteemed lawyers and up-themselves shrinks.

## **Draft minutes of the meeting of the WBA National Committee held in Sydney, 28-29 November 1998**

*For information of members, the unconfirmed minutes of WBA National Committee's November 1998 are given here. They will be tabled for approval at the next meeting of the committee.*

**Present:** Cynthia Kardell, Jean Lennane, Brian Martin (chair), Greg McMahon (minutes), Grahame Wilson

All decisions, as recorded below, were made unanimously.

### ***Confirmation of the minutes***

Motion: that the minutes of the meeting of 10-11 January 1998 be approved. Moved Jean Lennane, seconded Grahame Wilson, carried.

### ***Business arising from the minutes***

All matters are covered under items of general business.

### ***Treasurer's report***

A letter was received from the Treasurer. The finances of the organisation are in a good state. The importance of continuing recruitment was emphasised.

### ***Correspondence***

A letter was received from Christina Schwerin (vice president) raising the issue of unauthorised use of Whistleblowers Australia letterheads. Options for including material on appropriate behaviour in court were discussed.

### ***Reports***

Each member of the committee gave a report on their activities during 1998.

### **General business**

#### ***Whistle appointments for 1999***

Editor: Rachael Westwood to be encouraged to take on this role.

Production Editor: to be advised, will advertise in *The Whistle*

Editorial Board: Bill De Maria, Jean Lennane, Brian Martin

Distribution: NSW branch.

#### ***Whistleblower cases of national significance***

Motion: that the cases of Jim Leggate, Kevin Lindeberg, Mick Skrijel and Bill Toomer be accepted as whistleblower cases of national significance. Moved Jean Lennane, seconded Cynthia Kardell, motion carried.

Greg McMahon is to prepare letters of notification to branches and the individual whistleblowers.

#### ***WBA liaison with other groups***

Experiences were canvassed on the establishment of liaisons with other groups and individuals. The benefits and disadvantages of using these liaisons, links and/or alliances, as well as being used by the partnering organisation, were described.

### ***Conferences***

Subject to confirmation of support by the Whistleblowers Action Group (WAG), it is proposed to hold a whistleblowers conference in Brisbane in November 1999.

#### ***Whistleblower legislation***

Both WBA-NSW and WAG will be advocating reviews of their state's whistleblower legislation during 1999.

### ***Publicity***

Grahame Wilson undertook to prepare an access-based format for establishing a set of media release contacts. A media release template will also be prepared.

### ***Other matters***

The other matters discussed on an information basis were:

- \* psychiatric diagnoses of whistleblowers

- \* International Labour Organisation amendment
- \* paedophilia
- \* defamation
- \* national liaison
- \* articles, information kits, books
- \* outreach to members

## **Will this be the last *Whistle*?**

As indicated in the September issue of *The Whistle*, I am stepping down as editor due to increased work commitments. In addition, production editor Patrick Macalister, a mainstay behind *The Whistle*'s success for years, can no longer undertake the task due to other commitments. The November issue was his last. My time as editor, from December 1997 to this issue, has been stimulating and educational. I thank all contributors over this period (including those whose contributions we couldn't use!), all those who have forwarded items from the media, Patrick for his stirring work behind the scenes, and the NSW Branch for efficient distribution, another vital but insufficiently recognised task.

As I write this, no one has volunteered to take over as either editor or production editor. Until these jobs are filled, there will be no more *Whistles*. Please contact me if you are interested. A descriptions of what's involved is given in the September *Whistle*. The WBA national committee appoints the editor and production editor.

For this issue, I thank Don Eldridge for sending items used in Media Watch.

For future issues (if there are any), continue to send your contributions to PO Box U129, Wollongong Uni NSW 2500 (with computer disc if possible), email to [brian\\_martin@uow.edu.au](mailto:brian_martin@uow.edu.au) or fax 02-4221 3452. You can ring me at 02-4221 3763.

***Brian Martin***, editor