"All that is needed for evil to prosper is for people of good will to do nothing." Edmund Burke.

The Whistle

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Whistleblowing in Academia, by Kim Sawyer

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Some years ago, when discussing with me the problems of accountability in Australian universities, a leading educrat referred to the universities as hermetically sealed. I understood him to mean that accountability had become internalised, and external disclosures minimised, and it is a perception that I share. The Dawkins reforms, which gave the universities autonomy, also gave them their hermetic seal. Post-Dawkins, Australian universities have tended to adopt two objectives. First and foremost, they are revenue maximisers but secondly, and almost as importantly, they operate to minimise reputation risk. The most important code of the Australian university has become a code of silence. But in recent months, that code is beginning to unravel.

There is no better testimony to the code of silence than the standards debate which has emerged in the last year. In July 2000, when a leading business journal wrote an article regarding standards in professional degrees, they received hundreds of emails, nearly all anonymous, from academics and students affirming the decline in standards. That response has been repeated in other media. Yet in 1997-8 when the West Committee reviewed Higher Education Policy, less than 5% of the submissions related to standards, none of the commissioned papers referred to standards, and neither did the 38 recommendations of the report. The decline in standards, which most academics have known about for years, has been suppressed because of the inability of academics to speak out.

Unsurprisingly, the higher education sector has more whistleblowing cases than other sectors of the economy. In two cases, seven years apart, I have been an internal university whistleblower. As a result of the first case at RMIT, the Senate Committee which considered the matters I had raised supported my recommendation for regulatory changes so that such events could not reoccur. Those regulatory changes are now overdue. In 1998 in my position as Head of the Finance cluster at the University of Melbourne, I raised concerns regarding a donation and consultancy offers that a student had made to members of the cluster. This led to an inquiry and to the Crommelin report referred to in your 14 February article.

When an academic raises matters in a university, a legitimate question is what procedures should be followed. I expect any internal inquiry to be based on common law and on the statutes of the university, to be independent and independently verifiable, to protect the confidentiality of all innocent parties, and to be transparent regarding its findings. Because most universities have, either in their motto or their

mission statement, some reference to seeking the truth, should not our internal inquiries be just as credible as the research papers we write? In the two cases I have cited, at RMIT and at Melbourne, there is some question as to whether the internal inquiries met the criteria above. The Senate Committee which considered the RMIT case found that RMIT did not conduct an open and timely inquiry, that the facts of the case were not open to independent assessment by RMIT's Visitor, and that those who brought the mismanagement to notice were harassed. In the case at Melbourne, in May 2000, I obtained an independent legal opinion on the Crommelin report which I submitted to the University. Its findings are significantly at variance with those of the Crommelin report. In addition, as Senator Carr has stated in Federal Parliament, it seems anomalous that in an inquiry into possible bribery, you do not ask the participants whether they have transacted monies or entered consultancy agreements.

The Australian in November 1995 called for the establishment of an academic ombudsman as an agency of referral for these type of problems. While I support this concept, I also see the need for universities to prescribe as a statute the procedures and criteria for internal inquiries, which includes provision for the protection of whistleblowers. But, more importantly, our universities should question their strategies for minimising reputation risk. Ernst and Young and KPMG have been conducting global surveys of more than 1000 corporations for the last 4 years on issues relating to corporate governance. The results of these surveys suggest that real transparency rather than nominal, real disclosures rather than nominal, real procedures rather than nominal, are what make a successful and credible corporation. As one respondent put it "our consistent treatment of employees caught committing fraud has sent a clear message to our employees that the company's stand is that, no matter how many years they have worked in the company, if they commit fraud we will dismiss them without fail." In US universities, the employees of universities are regarded as public officials, and real disclosures are more common. For example, in 1993, University of California (Berkeley) publicly dismissed its registrar for expense related fraud. In 1998 the University of Virginia dismissed a professor for travel fraud. On the websites of some US universities are listed the student disciplinary cases considered that year (names suppressed) with the offence, the verdict, and the sanction disclosed. In the absence of the disclosure requirements of publicly listed corporations, our universities must consider such other forms of real disclosure which enhance their credibility, extending perhaps to the failure rates and entry levels of their courses. An important principle that Australian universities must learn is that negative events do not necessarily weaken a university's reputation. They can, instead, be turned into reputation enhancement.

The problem that I encountered at Melbourne relates to one of the basic principles of a university, the separability of the student from their assessor. It is not a new problem, but in recent years it has assumed new meaning. In 1999, the Harvard Business School, for example, issued a policy announcement banning faculty members from taking any paid role—as consultants, advisers or board members—in student-run ventures. This was motivated by the involvement of students in many internet related start-ups, and their desire to include staff to raise the status of the start-up. A basic principle of all universities should be to declare and minimise all conflicts of interest, particularly those involving students. In the case of student donations to universities or the paid role of staff in student-related ventures, a fairly obvious policy is place a moratorium on such donations and involvements until the student is an alumni of at least one year's standing. This is the policy I advocated to the university when the Melbourne matter arose, and it is the advice I gave to the student. It is a common policy in US universities. But the timing of the donation is not the only complication with donations to universities. A recent case at Cambridge University highlights the need to authenticate the source of the donation. A theology lecturer at Cambridge has questioned the Hinduja Cambridge Trust established in 1991 with a 2 million-pound endowment by the Hinduja brothers to promote the education of Indian students. Currently, the Hinduja brothers are prevented from leaving India while a judge investigates allegations that they took bribes to help a Swedish company secure an arms deal with the Indian government.

The internal inquiries at RMIT and Melbourne illustrated the importance of protecting the interests of unrepresented stakeholders, the taxpayers and the students. In my internal response to the Crommelin report, I advocated the establishment of a student honour court as in the US. In 1840, there was a student riot at the University of Virginia at which the Dean of the Law School was murdered. As a consequence, in 1842 Virginia established the honour court system which is now present in over 100 universities nationwide, and is detailed on most of their websites. The honour court system relies on a system of student self-governance, with an honour code being prescribed in detail and violations of the code referred to a court consisting of students elected to positions, for example chief and associate justices. The court has prescribed processes of investigation, review, determination and appeal. Determinations of a case normally also involve faculty members, and the appeal process includes provision for appeal to the Chancellor. If adopted in Australian universities, the student honour court system would impart a meaningful governance role to an important group of stakeholders, the students, and provide more transparency.

The January innovation statement of the Prime Minister provided a funding injection to our universities, but it did not address the far greater problem of poor corporate governance. Australian universities are tending to use a

corporate philosophy which is allowing managerialism to crowd out academic innovation. The current Senate inquiry into higher education provides the opportunity for the better disclosure of our universities. I am proposing to this inquiry that a higher education summit be held to establish national settings for standards, commercialisation and governance. In particular, I argue for a uniform grading system in all Australian universities, a national entry test for local and international students, and a national graduate entry test. In addition, I propose better disclosure requirements, including that the minutes of all academic board and university council meetings be accessible to staff. And that university inquiries be more transparent.

Associate Professor Kim Sawyer
University of Melbourne

Kim has a long record of whistleblowing within the tertiary academic sector, and is one of the key members of the WBA Victorian Branch.

Why the system never seems to work, by Brian Martin

Whistleblowers are often surprised at the hostile response to their disclosures. They might report problems at work to superiors, simply expecting that the matters will be investigated and rectified. They may not even think of themselves as whistleblowers.

Speaking out will always be necessary because, no matter how good government regulations, corporate auditing or medical ethics are, there are bound to be violations, abuses and other failures. That doesn't necessarily mean "the system" has failed, only that there has been an isolated breakdown. The system as a whole can be said to work if problems are dealt with in an effective way. But whistleblowers frequently encounter something deeper and more ominous.

After making a disclosure and suffering reprisals, whistleblowers typically expect that justice can be obtained on a wider stage. If the problem is with a boss, then the boss's boss should fix it. Or maybe a grievance procedure, a court case or a submission to an authority like the ombudsman. If these provide justice, then "the system", in a wide sense, can be said to work.

This is where things get really disheartening. For none of the higher levels or appeal bodies seem to be able to change a thing, at least not very often. The most that a persistent and fortunate whistleblower can expect is some compensation payment, often far too small and years down the track. But the original problem remains unfixed. More importantly, the procedures, organisational arrangements or mind set that led to the problem are unchanged.

Whistleblowers should be the warning signals for a system that is going off course. If the system works, that should mean that the signals are heeded. But they aren't. The question is, why not?

Why doesn't the system work?

One explanation is that corruption is deep-seated and pervasive. The whistleblower initially peeks under the carpet to find dirt and only later realises that the floorboards are rotten.

Another explanation is that appeal bodies are overloaded. They contain many well-meaning and hard-working staff who do their best in impossible circumstances. A whistleblower might need an investigator to spend months full-time on their case, but the reality is that the investigator has 50 other cases to handle.

A third explanation is that appeal bodies are set up to fail. Governments establish them to give the appearance of action against corruption, but don't provide them enough resources or teeth to achieve very much. If by some quirk an agency starts to make waves, it will soon be put in its place.

But why would governments set up appeal bodies to be toothless tigers? Does that mean that the governments have something to hide -- their own corrupt actions? That means we're back to explanation 1, deep-seated corruption.

"The system"

To answer this, it's helpful to look again at "the system". The usual assumption is that organisations, policies and procedures are set up to achieve their stated aims, such as productivity, efficiency, service, justice and fairness. When they fail, this is explained by incompetence or corruption.

But there's another way to look at things. Organisations, policies and procedures are set up and maintained mainly by people with a lot of power, money and status. It makes sense that they prefer systems that keep them in their advantageous positions, while appearing to be beneficial to everyone.

Furthermore, there's no conspiracy involved. Powerful people believe that they are acting in the public interest. It just so happens that the actions they think are best turn out to keep them in their powerful positions. The system is much more stable if those with the most power are entirely sincere when they defend it.

In this picture, the system is all about maintaining privilege, hierarchy, inequality, and selective justice while appearing to be compassionate and fair. It can't be too exploitative, otherwise people may rebel, so it needs to deliver goods and other benefits to a lot of people, but with more for the elite.

The whistleblower threat

From this picture of the system, whistleblowers are both annoyances and deep threats. They are annoyances because they expose some flaws in the way the system works. But that's not really a big problem for elites, since what's it matter if a few low-level corrupt officials are exposed? Vindicating and rewarding a whistleblower wouldn't be a problem for people in power if the only things involved were a few jobs and a bit of money.

The threat that whistleblowers pose is to the system of power. The whistleblower is saying, in effect, that one person with truth on their side should be able to have their way

against lots of others with more power, money and position.

To allow a whistleblower to win on the substance of the matter would mean that the whole system would come under threat. After all, most power elites have skeletons in their closets and are vulnerable to exposure. So it is dangerous to allow a whistleblower to set a precedent.

Implications

If this perspective is adopted, a number of conclusions follow.

First, whistleblowers will be attacked even if it would be far easier and cheaper to deal with their complaints.

Second, the weaker and more insecure bosses and officials feel, the more they will attack whistleblowers. A whistleblower's best chance for a sensible response will be from superiors who are competent, secure and self-confident (deep down, not just superficially).

Third, if whistleblowers mobilise too much pressure to resist, the easiest way out is for managers to sacrifice a few scapegoats, such as low-level officials. The goal is to maintain the system.

Fourth, precedents for system change will be opposed to the bitter end. Elites prefer to give a whistleblower a massive payout rather than to open up the possibility of changing the system.

Fifth, symbols are used to give the appearance of responsiveness. Setting up appeal bodies is one way. Policies that sound good but achieve nothing are another. Pressures for change often can be eased through symbolic politics.

The system does work! But it's a system to maintain power and privilege, not a system to bring about justice.

How to have an effect

If whistleblowers understand what they are up against, they will have a much better chance. Change is possible, but it's not easy to bring about. There are actually a lot of people trying to bring about beneficial change, both inside the system and out. Whistleblowers can greatly improve prospects of being effective by clarifying their goals, finding out who else cares about those goals, investigating options, building alliances and planning for a long struggle. They can learn tremendous amounts both from other whistleblowers and from a variety of social activists.

The system is far from all-powerful. It is in constant flux, and does change for the better as well as for the worse. Whistleblowers have a special role to play but they can do it best if they team up with other actors and understand the plot.

Brian Martin
International Director,
Whistleblowers Australia

Report from the National President, Whistleblowers Australia Inc.

There seems to be a lot happening in the whistleblowing world, with some excellent media work on individual cases, and on whistleblowing in general. Channel 9's Sunday in particular has done some very good programs, and now has a whistleblowers' honour roll on their website (www.ninemsn.com.au/sunday).

Three other items are of particular interest.

1) KPMG hotline. Some time ago Cynthia Kardell and I had a meeting, at their request, with two guys from KPMG's 'forensic accounting' section. (KPMG is one of 'the big five' national/international accounting firms.) With no bodies like ombudsmen covering the private sector (not that Ombudsmen and ICACs are necessarily helpful!), KPMG are offering a hotline that private sector WBs can ring to give information about fraud etc in their organisation. The KPMG contact, an experienced forensic accountant, then writes an 'engagement letter' to the appropriate person in the whistleblower's company, saying they've been given information about possible/probable fraud there, and offering their services to investigate it.

KPMG's agenda is simple—getting more business—and once the company accepts their offer to investigate, the company becomes KPMG's employer, with the usual potential conflicts of interest. However, it is potentially very useful to some WBs in organisations big enough to be of interest to, and able to afford to pay people like KPMG (banks and insurance companies would obviously qualify, and any other company employing, say, 500 or more people, or having a comparably big turnover). The big advantage is in getting an outside, heavy-sounding player into the game at an early stage on the side of the WB; and if the company is honest at the top, i.e. the CEO wants fraud etc to be fixed, it could work very well.

WBs are assured their identity will not be disclosed without their consent, and could if they liked make their complaint through a WBA representative rather than calling the hotline themselves; though it might still be obvious who the WB is because they are the only person not in the fraud with access to the information. If the company is crooked at the top they would obviously refuse KPMG's offer to investigate, and would probably then go after the WB in the usual way; that is, while potentially useful, it is also potentially dangerous, and WBs need to be aware of that. If anyone is interested, please contact your state representative, me or Cynthia.

2) NSW police officer Christine Nixon was recently appointed as Victoria's new police commissioner. As a woman, she was excluded from a lot of things in the NSW police service, including the corrupt NSW boys' network, and I am sure will want to clean up the dismally corrupt Victorian police (see Ray Hoser's *Victoria Police Corruption* books for

some idea of what she'll be up against). But whether she—or indeed anyone else—will be tough and clever enough to do so is another matter.

However on the plus side, Christine was involved from the beginning in the Internal Witness Advisory Council in NSW, which WBA has been on and off, and it was mainly thanks to her that the WB research project got off the ground. This has now been going several years, comparing the health, careers and well-being of WBs, control police, and the police the WBs blew the whistle on. The research is done by an outside, independent researcher, and the most recent results showed WBs for the first time doing slightly better than the wrongdoers. (Initially of course the wrongdoers did very well, and WBs spectacularly badly.)

In due course WBA will be making an approach to Christine about her intentions regarding WB support and protection, an Internal Witness Advisory Council, and the essential back-up research; and offering our support. That support of course would not be unconditional—we would stay on board while the service is doing the right thing, but walk out in a public manner as soon as it appears they aren't. (As it seems we will have to again before too long in NSW, alas—a story for the next *Whistle.*)

3) The Professional Standards Council has produced a report, "Whistleblowing in the Professions" on the basis of a number of submissions they received. The report seems to me pretty wishy-washy at this stage, but they are asking for further submissions by 18th May 2001. Interested WBs can get a copy of the report by phoning 02 9228 8060; or from www.lawlink.nsw.gov.au
The Whistleblowers of national significance pamphlet is on the Channel 9 website,
www.ninemsn.com.au/Sunday/.

The material on the same website also contains the John Kite/NPWS/ICAC "smoking gun memo" from the Channel 9 Sunday Program.

Jean Lennane
National President WBA

Report from the Victorian Branch of Whistleblowers Australia Inc.

By the time that this report is published in *The Whistle,* Victorian members will have held an election and for the first since December 1997, will have a formally elected committee in place.

Special recognition must go to Brian Coe for the time, effort and finances that he has dedicated over the period 1998 to present, to keep a whistleblower support group active in the state. Thank you to all of the members of the group who lent strength and support to this effort.

Brian has also made the interstate trip to attend every AGM that has been held since he took up membership of WBA in March 1996, five years ago.

I was away in Western Australia for all of the year 2000. There, I met some highly interesting and very courageous whistleblowers.

I caught up with Jan Ter Horst, whom many Victorian members will recall had his case supported initially from Victoria, over the years 1996-1998. Jan sends his greetings and deepest thanks to Victorian member Lionel Stirling, whom Jan says did so much to help him with his case. Jan reflects that Lionel gave him "the heart to battle on". Jan expects to see important progress in his matter soon.

Victorian membership is experiencing new growth. Regular monthly meetings have been resumed and members have undertaken progressive initiatives for 2000/2001.
Several very serious cases have been brought before WBA Victoria during the last two months of 2000 and in the first three months of 2001.

One involves misuse of funds in a community bank which as yet cannot be detailed. This has resulted in all of the usual strategies being brought into play against the person forced to blow the whistle when those responsible for taking action to halt the improprieties involved vied instead to accept bribes in various different ways. They then moved to silence the whistleblower, rather than initiate measures to halt the wrongdoing.

Whistleblowers in focus
The Victorian 'Key Cases of National Significance' those of ex-quarantine officer William Toomer and professional fisherman Mick Skrijel (who was framed by the NCA and police and falsely imprisoned for 6 months) are to be submitted to Channel Nine's 'Whistleblowers' Role of Honour'. It is hoped that they will soon be read on the Victorian Website as well.

Also to be submitted to both is the case of solicitor/whistleblower Wally Edwards. So keep a watch out for these.

On WBA administrative matters that have been known to cause pain and confusion unnecessarily, may I please suggest to all branches that they put in place written instructions to cover the following.

New members: paying their registration fee
That the money and the application form should not be accepted by any branch member, but the applicant should mail both direct to the treasurer with a copy of the form sent to the secretary.

There can be no opportunity then for what recently occurred in Victoria when an individual passed their completed form and money over to another Individual. From that point onwards nothing at all occurred. Four months later when the applicant sought election to a committee position she found that she was not eligible to do so, as she was not a financial member of WBA.

By adhering to the procedure above there can be no possibility of such an oversight.

If anyone pays over an amount and indicates that they require the same rights within WBA as fully financial members, but forbids the listing of their name anywhere, even in meeting minutes, then they must be required to complete an application for membership form, no matter what degree of anonymity they desire. Provision is there on the form for each applicant to specify what they each need. At a later date it is impossible to trace the history of a matter.

There has been a dispute involving such a situation.

When members are mailing in their annual membership subscription they should enclose it with a short letter to the treasurer which is copied to the secretary. The letter should set out their contact details and the year for which the subscription is to be credited.

For example:
"Please find enclosed my cheque to the value of $25.00, being my annual membership subscription for the year 2001-2002"

Members should keep their financial membership details in a dedicated file. This may appear to be an unnecessary and basic piece of advice, but it can prove a highly valuable practice, especially when election time comes around. The member has a quick referral source to prove financial membership and hence, eligibility to be nominated for any committee position, eligibility to nominate another member for any committee position and eligibility to vote in an election and/or on any matter of business during the course of a meeting.

It also removes the necessity to call upon the treasurer and secretary at such times for record searches and to resolve disputes over such matters.

Monthly meeting of WBA Victoria will be held on the first Sunday of each month. The venue is:
The Melbourne Peace Memorial Church, 110 Grey St., East Melbourne, with a 2.00 p.m. start.New and past members are always welcome.Until such time as the new committee members are elected, contacts for WBA Victoria must remain as:
Ms Christina Schwerin
Tel: 03 5144 3007 or
Mr Anthony Quinn,
Tel: 03 9741 7044,
Mobile: 0408 592 163 (new number)

Update from the South Australian Branch of WBA

MEDIA RELEASE
Whistleblowers Call for Repeal of Protections

Sunday 8th, April, 2001, will mark the eighth anniversary since the ascent of the South Australian Whistleblower Protection Act 1993 (WPA).

To commemorate the occasion, the South Australian Branch of Whistleblowers Australia Inc. (WBA) is calling on the State government to immediately repeal the Act.

Spokesperson for WBA, Matilda Bawden, said, "The Act was the first of its kind in Australia. However, despite many and repeated efforts to access the Act's protections, it has failed to actually protect anyone in this state. In fact, in one at least one instance, when asked from the bench why the government agency was contesting the whistleblower, the reason offered by Crown Law was 'because [he] has been such an irritant to the department'. If one accepts the official rhetoric, it stands to reason, therefore, that there must be no corruption and that there are no "whistleblowers" in this state."

WBA is also calling on the government to:

- Repeal relevant sections of the Freedom of Information Act, Equal Opportunities Act, and Occupational Health and Safety Act,
- Implement the immediate shredding and destruction of all Public Interest Disclosures lodged with government agencies since the Act came in to force,
- Introduce the retrospective absolution of all official wrongdoing by striking out all applications for protection currently before the courts and designated Responsible Officers.
- Scrap plans for the establishment of an Anti-Corruption Commission.

On Sunday 8th April, 2001, the SA Branch of WBA held a public seminar on "A Hitchhiker's Guide to Understanding the Whistleblower Protection Act 1993" at the Disability Information and Resource Centre (DIRC) at 19 Gilles Street, Adelaide. Entry to the seminar was by donation.
The seminar sought to provide workers, union officials and members of the public with a section-by-section account of what may happen to a person when they seek to access their rights under the Whistleblower Protection Act, using actual cases and official public documents.

Matilda Bawden is available for comment and can be contacted on 8244 5525 (w), 8258 8744 (h) or on 0412 836 685 (mob, anytime).

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And our peers in particular, by Zdenek Slanina

A comment on scientific misconduct from Zdenek Slanina, Czechoslovakia.

In the present wave of interest in scientific misconduct, the role of peers has frequently been stressed. In this note, I shall point out just a negative example—a case of a peer who tried to suppress, victimize and punish a legitimate criticism. It deals with a Canadian scholar of a Czech origin, let us call him XXXX YYYYY.

Let us start from some other end. Some time ago, a leading figure from the Czech Academy of Sciences in Prague announced in a large-scale newspaper interview a discovery of 'the strongest classical explosive known so far, one hundred times, possibly even one thousand times, stronger than trinitrotoluene, dynamite or nitroglycerin'. It was an obvious nonsense, a trivial textbook mistake. Standard scientific ethics calls for correction of such mistakes to prevent their spreading and repetition. I have recently published my criticism in *Skeptical Inquirer* vol. 24, No. 4, p. 18 (2000). Before that, I had tried to distribute my critical remarks among the Czech scholars concerned (it is virtually impossible to publish such a criticism within the Czech scientific community as people are afraid that it would further deteriorate a shaky image of science in eyes of general public). Nevertheless, the pseudo-discovery has recently been dubbed 'Czech cold fusion' in the country.

That time, I had been serving as a professor at a university department in the Far East. Suddenly, a strange fax arrived from a Canadian university to my department executive, and I quote its main body text here:

"I am very sorry that I have to bother you with this letter. However, I do not have any other choice since I have received two anonymous letters which were sent in official envelopes of your Department. I am enclosing the xerox of the two envelopes. I suspect that the same letters were sent to a considerable number of scientists around the world. Would you please send me a fax number to which I can send a confidential letter (I would prefer it to be your personal Fax number). When I receive this number I shall write to you in detail as to what the whole case is all about. XXXX YYYYY Professor of ... Professor of ... Fellow of the Royal Society of ... "

Reading this, you may believe that I did something wrong. I didn't. Let us summarize the relevant facts in order to understand this completely confusing and misleading message. On both envelopes my name was clearly given, written by my hand above the departmental address, though it was done in the local writing system (I did not have a private address as I lived on the campus). However, just the parts of the envelopes with my name were skillfully covered on the xerox copy he faxed. However, if they were not, one would not have been able to speak on anonymous sendings. I myself would call this manipulation fraud. Now, he didn't say a pretty important fact—the materials in both envelopes were exclusively in the Czech language (this itself contradicts that they might be sent to "a considerable number of scientists around the world"). One of the materials was my own text, with my name, and dealing with a criticism of the above pseudo-discovery. The other material was a selection from the Czech newspapers concerning the Czech Academy of Sciences. There was a yellow adhesive label on it with my signature and greetings. Hence, it was a very Czech event and there was no ground to speak on some "anonymous letters".

I have concluded that the scholar had tried to punish me because I have criticized a clear scientific nonsense and, moreover, he had used a disgusting distortion, manipulation and fabrication that certainly could seriously harm my own reputation, if run out of control (he is not responsible for the pseudo-discovery—it was done by his close friend). There is of course no excuse for this type of approach, especially not for a member of a Royal Society!

I have sent several letters to the Canadian scholar of Czech origin, clearly saying that he committed a fraud. He has never replied to me. In overall, it should be noticed that sometimes some peers can act just against the rules of scientific ethics that otherwise actually require a support and protection of 'whistleblowers' (cf. the recent NAS Panel on Scientific Responsibility and the Conduct of Research). This sad and depressive fact certainly makes any fight against misconduct in science even more difficult and risky.

Zdenek Slanina, Prague, e-mail: sidon_sidonius@post.cz

The NSW experience with caring and sharing meetings—learning by doing

Rachael Westwood, Secretary, WBA National Committee reports on learning by doing in the facilitation of NSW caring and sharing meetings.

Running a caring and sharing meeting is a tricky business. Its purpose is to be a forum for people who are blowing the whistle – they can come to the meeting to get information, meet people who are in a similar position, let off steam, give advice to others, have a good cry – in fact, anything at all within limits. The tricky part is: What are those limits and how do you enforce them in the caring and sharing environment?

In NSW we've had: a fellow taking sexual advantage of vulnerable female members; a couple of people touting for business at the meetings; a religious sect trying to sign up our mem-

bers; a convicted paedophile trying to join; a member who breached the confidentiality of the meeting and interfered in another's case without that person's knowledge; members bullying other members into actions they did not want to take; vilely hectoring behaviour on the part of a couple of members; and some individuals in need of psychiatric help—and not in the HealthQuest sense, either, but in *real* need of a psychiatrist. And these examples are just from the last couple of years!

So what did we do? Each time one of these problems arose, there was, naturally enough, deep concern on the part of the branch officials. Would this scandal break up the group? Would our good name now be mud? How could we prevent the behaviour, or future instances of it? How strongly could we enforce standards without adversely affecting the caring atmosphere of the meetings?

Actually, these crises turned out to be blessings in disguise. Firstly, in solving our problems the branch executive became a stronger unit. In exercising their responsibilities, they were forced to think about *how* they should behave as an executive team, *what* the (until that moment) unwritten rules of the group were and *who* was going to enforce these rules. Secondly, we were all forced to think about *why* we had these unwritten rules. Asking the questions was the painful bit – the answers turned out to be quite obvious.

You'd be surprised how difficult it is to get agreement on how to deal with a sexual predator or a habitual bully. If the decision had been mine, there are a couple of people who would have been tied to ant hills in the midday sun. Luckily, I'm not on the executive. Some on the executive committee could see my point of view, and others wanted to look the other way and pretend nothing had happened. The middle ground prevailed, and as a result, long lasting, sturdy methods for dealing with rule breakers were developed, methods that can be replicated by future committees, without all the stress of method creation.

In addition, while solving these problems, we saw that a common thread ran through all our solutions – our unwritten rule of behaviour is "courtesy and consideration at all times". We treat each other with respect, we don't bully and do not hector, nor allow others to do so, we treat all complaints and questions seriously. This, we realised, was what we usually wanted our *employer* organisations to do because courtesy is not just a nice way to behave—it is the most effective communication mode, a way of dealing with our problems and each other that allows the *issues* to prevail, rather than personal prejudice.

So, how do we enforce courtesy and general rules of the group? Simple. We politely state at the beginning of each meeting that courtesy is required when addressing the meeting and each other. Then we run through the basic rules:

1. This meeting is confidential. We can't enforce that, but we expect it.
2. You are not allowed to sell your services here. All advice is free, and it is up to you to decide whether it's good advice or not.
3. Be careful of members who offer you sexual favours. We try to keep predators out – but we're not always successful.

That's it. Simple, effective, no fuss no muss and everyone knows where they stand.

Sometimes, you have to be courteously blunt. A new visitor to our group begins their story, "This all started in 1983 when the Prime Minister ordered Kerry Packer to spy on me through my television set. Packer's helicopters have been buzzing my flat ever since and when I read the bible, Jesus says, Liberty (that's my name), Liberty, everyone hates you." What to do? Be politely blunt. "Liberty, you are obviously very upset by your experiences, and I know this is going to disappoint you, but we can't help you here." That is the best response for Liberty and the group.

One thing you can count on is our problems will never go away. We don't know what the next group problem will be – we just know there will be one, and one after that, and so on. But each time we solve a problem our group becomes a little stronger, our rules of behaviour clearer, and this means that our ability to solve problems becomes ever greater. You wouldn't think an habitual bully would be a blessing in disguise, would you. I still think the ant hill solution is the best one, but our group's rules of behaviour prevent me acting on that thought. Drats.

Rachael Westwood
WBA Secretary

Ray Hoser

For reasons of space, only part of this recent report from Ray Hoser is included here. Interested readers should visit http://www.smuggled.com/ for vast amounts of material.

AUSTRALIAN GOVERNMENT IS NOW TRYING TO JAIL AUSTRALIA'S LEADING CORRUPTION AUTHOR FOR TELLING THE TRUTH!

This is a story of immense national importance and that's why you are reading it here.

One may also ask why the mainstream press haven't run it yet—but we can always hope that they will see common sense and run with it.

In an Australian first and in a step reminiscent of totalitarian regimes past, Victoria's Attorney General Rob Hulls has instructed his government to initiate proceedings against Australia's leading corruption author Raymond Hoser with a view to having him imprisoned.

Hulls has just issued writs against Hoser and his publishing company Kotabi over their 2 year-old books *Victoria Police Corruption 1* and *2*, (which between them total 1,536 pages), which you have probably already read or read about elsewhere.

The books were best-sellers before Hulls ordered them off the bookshelves last year in all Australian states (a year after publication).

These are the books that took Victoria by storm in 1999, which were the final straw that forced the Kennett government out of office, led to a Royal Commission into the Ambulance service and led to the greatest mass exodus of police from the Victorian Police force in modern times.

Now two years after publication and with total "hard copy" sales over 10,000 copies (plus CDs, extracts and so on), Hulls has again instructed his lawyers to sue Hoser and his publisher for "contempt".

The charge of "contempt" alleges that Hoser and publisher have "scandalized" the Victorian courts.

The same allegation was pursued unsuccessfully against Hoser in a related defamation action in April 2001, when Justice Bill Gillard ruled the application as improper and awarded costs in Hoser's favor.

Several months later, Hoser signed off on an agreement not to pursue these costs on the basis that all actions against him would be dropped. Hulls was a party to these original actions and had a letter presented to the court in the case.

Now, six months later, Hulls has broken the agreement and initiated fresh legal action against Hoser and his publisher.

The irony is that as recently as 9 October 2000, Hulls' media spokesperson Jane Wilson was quoted in the Murdoch controlled *Yarra Leader* newspaper stating that "it was not illegal to sell the book".

That was until now!

If this unprecedented case is successful, Hoser will once again be jailed for doing nothing more than telling the truth.

Bureaucratic Troglodytes, by Snow Parl

In their concrete caves they dwell
Their life's mission to cause you hell.
Their tools of trade, well used in schemes
To demonstrate their psychotic dreams.

As they lack the knowledge and skill
They use every trick to cause you ill.
Lies cover incompetence well,
Whilst on your demise their minds do dwell.

Take satisfaction from the fact
They are soon to fall to another's act,
For from the depths of their psychotic fear
The next Troglodyte draws near.

So in your caves of bureaucratic hell
The time has come for you to smell
The stench of panic and of fear
As now your own time draws near.

(Reply to Catherine Habel, caitrin@dove.net.au)

Commentaries by Robert Taylor, Editor of *The Whistle*

Victorian Ambulance Service

An unsung Victorian whistleblower led to Royal Commission into the Victorian Intergraph Ambulance Service matter. The 261 page interim report from the Royal Commissioner, Mr Lex Lasry QC, notes that he was satisfied that Intergraph's conduct was illegal in that it contravened the Trade Practices Act and the Fair Trading Act. Premier Bracks said "[The report] found that there was deliberate, illegal and improper conduct in the arrangements between Intergraph and the Metropolitan Ambulance Service". Refer AFR 3/5/01, page 3.

Concentrated power means no freedom. No freedom means little knowledge creation and, worse, little knowledge propagation. No propagation means little institutional learning and, thus, no effective action if the world changes. Arie de Geus, Dutch author.

Once a political system has been corrupted right from the very top leaders to the lowest rungs of the bureaucracy, the problem is very complicated. The cleansing has to start from top and go downwards in a thorough and systematic way. Kuan Yew Lee (1923–), Singaporean statesman.
Straits Times (Singapore).

ICAC's "show trial"—a putative "independent" investigation of NPWS and hunt for an ICAC insider?

Mr John Kite is not a member of WBA, and WBA's concerns focus on the conduct and procedure of ICAC's investigation and hearings. WBA's concerns remain in line with its long-time policy of remaining at arms length from the actual allegations and personal concerns of the whistleblower. Nevertheless many NSW members have been providing moral support to Mr Kite by attending the ICAC public hearings.

It appears that ICAC became "sensitised" over the Channel 9 "Sunday Program" public airing of John Kite's allegations regarding the NPWS and ICAC.

ICAC chose to rejig the priority of the items in the terms of reference for the

"Independent Inquiry". This triggered WBA long-held sensitivities regarding ICAC processes and investigations. WBA was also concerned that ICAC has exclusive control over all evidence collected, controls the entire investigative process, and particularly the risk (perceived if not actual bias) of ICAC conducting the investigation where one the key items to be investigated involved the matter of a corrupt (or corruptible) ICAC officer.

The telephone intercepts of telephone calls was revealed in the second stage of the ICAC investigation into John Kite's allegations of corrupt conduct within the NSW National Parks and Wildlife Service and the possibility of an "ICAC contact" able to derail ICAC assessments and investigations of allegations into the NPWS (and presumably other NSW government agencies). The revelations of ICAC's "chain letter" of warrants for the telephone intercepts confirmed WBA's worst fears. WBA fears that ICAC's actions seek to "destroy" the reputation of the whistleblower rather than investigate his allegations.

WBA wonders if similar scrutiny (telephone tapping, forensic investigations of PCs, and the prying into the personal lives) were conducted by ICAC of the "named" NPWS staff or only into the Kite household—i.e. unbiased investigative procedures.

An investigation infers the investigator does not know the "result" at the outset, however it is likely that the public will never know whether ICAC scrutinised the actions and private lives of the relevant NPWS officers in a similar manner ICAC monitored Kite.

Dutiful members (Cynthia Kardell, Jean Lennane and Rachel Westwood) of WBA NSW Branch confronted the Deputy ICAC Commissioner (Mr K Pehn) regarding the concerns of many WBA-NSW members.

WBA is particularly incensed by ICAC's handling of the investigation hearings as it is not an open and independent process. It appears that the "closed ICAC hearings" are used to elicit information for ICAC records, and then the open-hearings are orchestrated with the effect that only the material to Mr Kite's detriment is put on the public record. This gives the proceedings the tone of a KGB-style "show trial".

So far the focus of the proceedings appears to serve to discredit the whistleblower, rather than delve into the serious allegations of NPWS malpractice involving the coronial inquiry into the Thredbo disaster and other matters.

I do not have information from all of the ICAC hearings. At this stage I cannot comment on the likely outcome of the inquiry, however I note that a logical analysis would indicate that the authenticity of the "smoking gun" memo and the truth of the allegations referred to in the memo are two totally separate and independent issues. Hence ICAC's sole concern to date from the hearings is to do with the authenticity of the memo. I believe the public interest would be better served by investigating the allegations against the NPWS. The allegations stand as matters requiring a proper and full investigation—particularly the prospect of an ICAC "insider" nobbling ICAC assessments, reports to the Operations Review Committee, and any ICAC investigations that actually commence.

If any of these allegations can be proved the matter of the authenticity of the memo is substantially diminished.

ICAC appears to be intent on playing the "shoot-the-whistleblower" game.

A camel's dung points to the camel. Anonymous Lebanese proverb.

In passing, also, I would like to say that the first time Adam had a chance he laid the blame on woman. Attributed to: Nancy Astor (1879-1964), U.S.-born British politician.

They have a right to censure, that have a heart to help. William Penn (1644-1718), English preacher and colonialist. *Some Fruits of Solitude*.

"Tyranny is always better organized than freedom". Charles Pierre Péguy (1873-1914).

Freedom unexercised may become freedom forfeited. Margaret Chase Smith (1897–1995), U.S. senator.

Academic whistleblowers

Academic whistleblowers have featured prominently in the press over 2000/01: see our lead article "Whistleblowing in Academia", and news reports regarding academic Dr Ted Steele dismissed from the University of Wollongong, etc.

A professor is one who talks in someone else's sleep. Attributed to: W. H. Auden (1907–1973), British poet.

Alastair Gaisford case

Members will be aware of news reports regarding the triumph of Alastair Gaisford in his employment dispute with the Department of Foreign Affairs & Trade. Alastair reported allegations of pedophile foreign affairs in Cambodia—DFAT chose to bate the whistleblower rather than act on the allegations. DFAT is understood to have harassed the whistleblower through a dedicated 3-man "Alastair Gaisford task force". The net result was a high cost and unsuccessful campaign run by DFAT which is certain to be used as a case study within the Merit Protection Agency, and which has attained a similar status to the UK MacDonald's case.

Where were the whistleblowers in the HIH fiasco?

Minister Della Bosca's CTP amendments have totally ignored the arguments of Mr J Trowbridge, Institute of Actuaries of Australia, in the "Motor Accidents Scheme" Report No. 45, No. 2, the Standing Committee on Law & Justice NSW Parliament.

The IAA submission noted "whether or not provisions for compensation classes should be held in statutory funds or form part of the total business of the insurer." … "The argument in favour of statutory funds holds that this is necessary because compensation funds are held in respect of compulsory insurance against bodily injury. The funds should not therefore be exposed to the same risk of default as other classes of business."

If HIH's householders insurance, CTP, professional indemnity, etc. were in separate statutory funds, policyholders and claimants in each class of insurance would be immunised from the risks from the other classes. Also the risk and profitability inherent in each class of insurance would be evident to APRA, the MAA, policyholders, and the responsible Ministers.

Such a low-cost administrative change would make it difficult to have cross-subsides from low competition insurance products (household insurance) to highly competitive sectors (professional indemnity).

Minister Della Bosca's CTP amendments (limiting access to benefits & benefit reductions) of some 12 months ago were not matched by common-sense prudential amendments. The $600 million HIH CTP loss to NSW taxpayers is due to legislative failures by the Minister. Many policyholders would not have suffered losses from the HIH debacle if the "problem" (inadequate premiums, or liabilities undervalued by actuaries or directors) had been confined to a single statutory fund.

The NSW WorkCover Scheme has separate statutory funds, although this will change with privatisation on 30/6/01. The NSW workers' compensation reforms put injured workers at risk, as assets will not be in a separate statutory fund. NSW taxpayers would have been exposed to far greater than $600 million losses if the Minister had been able to privatise the NSW workers' compensation scheme as planned prior to the HIH insolvency. Western Australia and Tasmanian governments with their privatised workers' compensation schemes were not so lucky as NSW.

Minister Hockey can be damned for the delay in revising the Insurance Act to give APRA some teeth. Many changes (e.g. solvency margins, capital adequacy/prudential margins, "whistleblowing" obligations on the appointed actuary to ensure the independent financial advice to insurance company directors, each class of insurance in a separate statutory fund, etc.) are required to bring the Insurance Act up to the standard of the Life Insurance Act 1995. The Federal Government is responsible for the losses to all HIH stakeholders except for CTP and other areas of insurance covered by state legislation.

Both Ministers have failed in their duties to policyholders and claimants.

We may well ask where were the whistleblowers in the HIH fiasco.

I am against government by crony. Harold L. Ickes (1874–1952), U.S. lawyer and government official, referring to his resignation as secretary of the interior after a dispute with President Harry S. Truman.

Editorial guidelines for *The Whistle*

• Items published in The Whistle should relate to whistleblowing or the business of Whistleblowers Australia. If an item has no explicit or immediately obvious relation to whistleblowing, an explanation of its relevance to whistleblowing should be included with the item.
• Preference should be given to contributions by members (especially letters), to original writing and to recent material. Reprinting of material from other sources should be avoided, especially if the material is not recent ("recent" means published within the previous 6-12 months).
• Material relating to whistleblowing contributed by members should have preference over other sorts and sources of material. Possible reasons for rejection of submitted material include poor quality, low relevance, likelihood of a defamation suit, and failure to satisfy other guidelines.
• If material is available, at least 15% of each issue should deal with recent news stories about whistleblowing.
• Each issue should include material on a diversity of topics to appeal to readers with different interests rather than mainly being on a particular theme.
• The total length of The Whistle should be no longer than 16 A4 pages, unless agreed by the member(s) with delegated responsibility for handling distribution.
• No article over 2 pages or 2000 words long should be published. (This stipulation includes any series or collection of material on the same theme by the same author in the same issue.) Longer items can be cited or summarised, with reference to a full-length treatment that is available elsewhere (for example, on the web or by post on request).
• Other things being equal, shorter articles should appear earlier in any given issue of The Whistle, subject to considerations of coherence and appearance.
• All copy should be proofread before printing by someone in addition to the editor.
• One or more members of the Editorial Board, or one or more individuals approved by the Editorial Board for the purpose, should, prior to publication, check Whistle copy for adherence to these guidelines.
• Appeals against decisions made by the editor must be made to the Editorial Board. The Editor is not responsible for management of complaints. The Editor may seek the advice of the Editorial Board on any matter. Any matters not resolved within or by the Editorial Board may be referred to the National Committee.

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New South Wales "Caring & Sharing" meetings
We listen to your story, provide feedback and possibly guidance for your next few steps. Held every Tuesday night 7:30 p.m., Presbyterian Church Hall, 7-A Campbell St., Balmain 2041. **General meetings** held in the Church Hall on the first Sunday in the month commencing at 1:30 p.m. (or come at 12:30 p.m. for lunch and discussion). The NSW **AGM** is held at 1:30 p.m. on the day of the July General Meeting. **Contacts:** Cynthia Kardell, Tel./Fax. 02 9484 6895, or messages Tel. 02 9810 9468; Fax 02 9555 6268.

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Membership of WBA involves an annual fee of $25, payable to Whistleblowers Australia. Membership includes the annual subscription to *The Whistle*, and members receive discounts to seminars, invitations to briefings/discussion groups, plus input into policy & submissions.
If you want to subscribe to *The Whistle* but not join WBA, then the annual subscription fee is $25.

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