"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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PO Box U129, Wollongong NSW 2500

"Encouraging dissent is a good way of finding out who the traitors are."

Media watch

Pillars of democracy depend on leaks

Laurie Oakes
National Nine News, 24 August 2005

Politicians leak all the time. They feed out information anonymously to journalists to advance their own interests or damage rivals or opponents, or sometimes simply to ingratiate themselves with people in the media. Governments frequently use authorised leaks as part of what is called "spin."

It gives them more control over the way policies or decisions are reported than simply making announcements. But, as everyone knows, hypocrisy abounds in the political world. The fact that they leak themselves does not stop Ministers and MPs getting up on their high horses and angrily condemning leaks when the unauthorised disclosure of information causes them embarrassment.

John Howard's government was acutely embarrassed in February last year when Melbourne's Herald Sun newspaper revealed that war veterans and their widows were about to be done in the eye.

Recommendations from a review of their benefits were to be largely ignored. The veterans were to miss out on hundreds of millions of dollars. It was an important story and a superb piece of journalism, based on leaked confidential documents, including a memo from the then Minister for Veterans' Affairs Danna Vale. Eventually, Cabinet was forced to reconsider.

On this occasion, the embarrassment was so great that mere condemnation of the leak was not enough to satisfy the Government. A full-scale witch-hunt — sorry, investigation — was launched to try to identify the public service whistleblower who had revealed what the Government was up to by leaking the documents to Herald Sun reporters Gerard McManus and Michael Harvey.

Now a senior public servant has been suspended without pay and faces up to two years jail if convicted of the unauthorised disclosure of information. And the two journalists also face the possibility of jail because they have refused to name the source of their story when asked to do so in court. McManus and Harvey were acting in accordance with the journalists' professional code of ethics in taking their stand, but the judge ruled it contempt of court.

If McManus and Harvey are sent to jail, the finger of blame should be pointed directly at the Howard Government. The journalists were simply doing their job. It is obvious that, if journalists cannot guarantee to protect their sources, the disclosure of information the government wants kept secret will become a very rare thing indeed. And that would be bad for the nation. Democracy cannot work if journalists only report what governments want them to report. It is the threat of leaks that keeps politicians honest. Well, relatively honest. They are much more reluctant to lie or act improperly if they know they could be found out — that there is a risk some whistleblower will disclose it to the media.

A society where government has tight control of the flow of information — that is, control of what the public is allowed to know — is not a democratic society. Leaks, and whistleblowers, are essential to a proper democratic system.

Whistleblowers need support

Tony Koch
The Australian,
1 December 2005, p. 14

THE role of the media in exposing corruption or malpractice should be protected by law, according to former Queensland Supreme Court judge Geoff Davies, who yesterday released his report on serious problems in the Queensland public hospital system. Mr Davies slams the Queensland Whistleblower Protection Act, saying it is so restrictive that it does not extend to a person reporting an issue to a member of parliament.

He points out that the legislation entitles public officers to make disclosures about maladministration, official misconduct or negligence to "a public sector entity" only.

"There are two significant limitations to this system," Mr Davies writes. "Disclosures must be made to an appropriate entity and only public officers are permitted to make disclosures about official misconduct, maladministration, waste of public funds or threats to public health."

Mr Davies points out that a disclosure to a journalist attracts no protection under the act.

In his investigation into the health system, he also found that patients and their family members were unable to gain the protections of the Whistleblowers Protection Act if they wanted to make a public interest disclosure.

Mr Davies recommends that a whistleblower ought to be able to escalate their complaint if no satisfactory action is taken.

He recommends that the first complaint should be to the relevant government department, and if there is no resolution within 30 days, the act should extend coverage for the complainant to take the matter to a member of parliament.

If that did not bring resolution within another 30 days, he recommends that "the whistleblower be entitled to make a further public interest disclosure to a member of the media."

Customs warning 'a threat' to staff

Martin Chulov
The Australian, 19 August 2005, p. 6

THE Customs service has threatened staff with "serious consequences" if they co-operate with a parliamentary inquiry into aviation security or brief the media about their concerns. An internal Customs email sent last month warned that staff should consider their obligations to the protection agency ahead of a duty to publicly disclose any aspect of its performance.

The Customs Officers Association has said the email was a direct threat to

the functioning of the Joint Public Accounts and Audit Committee, which is inquiring into security at the nation's air and sea ports.

"The notice is not even a thinly veiled threat for officers to be silent," the association says in its submission to the inquiry.

"Why should anyone run the risk of making any career-threatening comment about operational concerns when there is no meaningful protection available and when it is clear that ACS management will act against anyone who criticises the administration?"

Association president Peter Bennett said staff had been intimidated by the Customs email into not co-operating with the committee.

The inquiry would be severely hamstrung in the absence of strong and fearless testimony, Mr Bennett said.

The public accounts committee launched its inquiry in the wake of revelations contained in a classified Customs report published in The Australian in June about serious safety breaches at Sydney airport.

The report revealed that up to 10 categories of staff working at the airport were suspected of involvement in drug-smuggling, or stealing from passengers.

It detailed illegal activity by baggage handlers, air crew, ramp and trolley workers, security screeners and cleaners.

Up to 39 of the 500 security screeners had serious criminal convictions, the report showed. Two of the convictions were for conspiracy to import a commercial quantity of drugs.

In the wake of the revelations, the Howard Government announced a $212 million security overhaul of all 45 national air and sea ports.

Aviation security consultant John Wheeler was hired to conduct a review of security in the most sensitive areas of domestic and international airports, which had long been suspected of being hotbeds of crime.

Sir John has now left Australia to write his report after spending only three weeks here.

The Australian Federal Police and Customs internal affairs officers launched an intensive hunt to expose any Customs officer who was thought to have been behind the leak.

Mr Bennett said yesterday the telephone of at least one officer had been tapped as part of the investigation.

"Why is this person now being chased by Customs?" Mr Bennett asked the committee.

"It was a public service," he said. "The bloke ought to be given a medal."

Customs last night denied it had tried to gag the staff.

"Customs appropriately provided advice to staff on their rights and obligations if they were considering whether to disclose information or make public comment," a management spokesman said.

Blowing the whistle can also blow a career

Paul K. McMasters
Ombudsman, First Amendment Center
http://www.americanpressinstitute.org
12 January 2006

When it comes to free-speech protections for federal employees, the Constitution sometimes isn't quite enough.

As far back as 1912, Congress began work to ensure that federal agency workers wanting to blow the whistle on excesses and missteps were protected from retaliation. In addition to a raft of laws, Congress over the years has laid down protections in the Merit Systems Protection Board, established an Office of Special Counsel for whistleblowers in trouble, and even given a new federal appellate court it created in 1982 exclusive jurisdiction over litigation arising from whistleblower cases.

Why all this concern for bureaucratic tattletales? Because they have served as a constant and valuable check on the federal government. As Louis Fisher writes in "National Security Whistleblowers," a new Congressional Research Service report:

"Over the years, agency employees have received credit for revealing problems of defense cost overruns, unsafe nuclear power plant conditions, questionable drugs approved for marketing, contract illegalities and improprieties, and regulatory corruption."

From the top down, whistleblowers have received high praise, even from presidents, for their service in improving government, according to Fisher.

President Jimmy Carter, in fact, proposed the Office of Special Counsel to protect whistleblowers "who expose gross management errors and abuses."

President Ronald Reagan saluted whistleblowers and promised them protection for reporting illegal or wasteful activities. They "must be assured that when they 'blow the whistle' they will be protected and their information properly investigated," he said. (Later, President Reagan turned back the first Whistleblower Protection Act passed by Congress.)

President George H. W. Bush said that "a true whistleblower is a public servant of the highest order," and that "these dedicated men and women should not be fired or rebuked or suffer financially for their honesty and good judgment."

But suffer they have.

According to Fisher's report, whistleblowers rarely have won when they've taken their cases to the Merit Systems Protection Board, the Office of Special Counsel, or even the courts. Instead, whistleblowers routinely have faced firing, transfers, reprimands, loss of promotion and harassment, not to mention criminal sanctions in some instances.

A House committee taking up amendments to the Whistleblowers Protection Act in 1994 reported that though the act "is the strongest free speech law that exists on paper, it has been a counterproductive disaster in practice. The WPA has created new reprisal victims at a far greater pace than it is protecting them."

That woeful record continues today.

Consider, for instance, the travails of Sibel Edmonds, the former FBI translator who was fired after she went public with claims of security violations, mismanagement and possible spying within the FBI department translating documents vital to the war on terror.

Another whistleblower, Bunny Greenhouse, was demoted from the top procurement post at the U.S. Army Corps of Engineers after she chal-

lenged the process by which a subsidiary of Halliburton won multibillion dollar contracts just before the war in Iraq.

Similar troubles were in store for the Army general who disputed his superiors' troop-strength projections for the Iraq war, the Medicare expert who tried to tell Congress about the real costs of new drug subsidies, and the government climate specialist who was disciplined for pointing out that political appointees were manipulating global-warming data.

Little wonder that whistleblowers more often go to the press, which has a better record of protecting them than boards, special counsels, the courts, members of Congress – or their bosses.

But even going to the press is not all that safe. The Justice Department has just launched a criminal investigation to track down anyone who leaked information to *The New York Times* about the National Security Agency's super-secret monitoring of telephone calls and e-mails from within the United States.

In another investigation, a special counsel in the Justice Department has been trying for two years to find out who in the White House leaked the name of CIA operative Valerie Plame to columnist Robert Novak. The prosecutor was able to force some journalists to testify before a grand jury and to send one reporter to prison for refusing to testify.

And the CIA general counsel's office has taken the first step for yet another probe by notifying the Justice Department that someone in the government revealed classified information about "black site" interrogation centers in Eastern Europe to *The Washington Post.*

No one knows how many whistleblowers who have shared information with journalists are looking over their shoulders right now. For example, the *Times* relied on a dozen or so current and former government officials for its coverage of the NSA surveillance.

Now, a prominent attorney warns there could be further erosion of the press's ability to help whistleblowers offer information about government abuse, mistakes and violations of the law. Harvey Silverglate, who represented several parties in the Pentagon Papers case in the 1970s, says in a recent article in the *Boston Phoenix* that the laws and court decisions are such that newspapers, reporters, editors and publishers "are at serious risk of indictment" in leak investigations.

When laws, regulations, courts and the Constitution itself are not enough to protect freedom of speech and freedom of the press, there is more than just good government at risk.

Defence purchasing linked to low morale

Transcript of *7.30 Report,* ABC TV, 4 January 2006

MAXINE McKEW: We begin tonight with a story that questions Defence purchases. The quality of a soldier's kit can be the difference between life and death on the front line, so it's hardly surprising that diggers are vitally interested in how their gear will perform. Former corporal Dane Simmonds was so concerned about the quality of some of the equipment provided by the Defence Department that he set up a web site to discuss its performance.

It seems there's a lot to discuss. Of the Defence Department's $17.5 billion budget, 40 per cent will be spent on clothing and equipment. But many of the soldiers who used the web site obviously didn't think the Defence Department was getting a great bang for its buck. The bureaucrats were stung by the criticism, and Mr Simmonds says the department forced him off the Internet and, ultimately, out of the Army. But not before he had received information about a questionable contract for winter jackets for the Army worth $8 million. The *7.30 Report* has learned that an investigation by the Defence watchdog identified serious flaws in the way the contract was awarded, and now questions are being asked about whether poor management of Defence purchases is affecting morale and recruitment.

Nick McKenzie reports.

NICK McKENZIE: Former corporal Dane Simmonds served twice in East Timor and once in Iraq, during almost 10 years in the Army.

DANE SIMMONDS, FORMER SOLDIER: My family was military, had a great military history, and I wanted to carry on the tradition.

NICK McKENZIE: But arguably his greatest battle was not overseas but with the organisation that spends billions of taxpayer dollars every year equipping the Defence Forces — the Defence Materiel Organisation, or DMO, supplying everything from submarines to socks. It will spend $7.2 billion this financial year. Some 40 per cent of the Defence budget.

As the *7.30 Report* has discovered, it doesn't always get it right.

DANE SIMMONDS: When we went to Iraq, we were issued a brand of glasses that were ski goggles, nothing more than ski goggles, but to the civilian counterparts or to the civilian people that issue this stuff, they're goggles.

What do you need ballistic goggles for? We need ballistic goggles because when we do our room entries, when bombs go off, we want to protect our eyes.

NEIL JAMES, AUSTRALIAN DEFENCE ASSOCIATION: The reports that we get from soldiers deployed forward in Iraq, for instance, is a lot of them end up buying their own ballistic goggles because they think they're better than the ones the system can procure for them.

NICK McKENZIE: The Australian Defence Association's director Neil James has also been hearing complaints about the procurement process.

NEIL JAMES: There has been some big complaints at digger level recently about a lot of the load-bearing equipment, particularly webbing.

DANE SIMMONDS: Whingeing about, complaining about equipment — I did to a certain extent because I knew that the welfare and the safety of my troops was more important than being, you know, considered a whinger.

NICK McKENZIE: To air his complaints, Dane Simmonds turned to the Internet. In 2003, he created an online forum to review gear and clothing provided by DMO.

DANE SIMMONDS: I started a web site called Mil-Kit Review. It was based on the premise that we would trial equipment by real soldiers, myself and a couple of years.

NEIL JAMES: The Defence Association thought the web site set up by the diggers to discuss their equipment was a brilliant idea. It's our understanding that it was actually strongly supported at unit level across the ADF [Australian Defence Force], including by commanding officers of units.

DANE SIMMONDS: Problem that we also got was we got information we didn't need, which was about the runnings of DMO and how things operate there.

NICK McKENZIE: That information, although not obviously useful to begin with, ultimately raised serious questions about how DMO was buying gear from private suppliers.

DANE SIMMONDS: Information on how tender processes are selected, how they're written, we've received stuff from people that used to work at DMO.

NICK McKENZIE: The information pointed to irregularities surrounding a contract for 80,000 Army combat jackets.

DANE SIMMONDS: When I first saw the jacket, myself and a few others were just, like, "What is this?! This is not a field jacket."

NICK McKENZIE: While Dane Simmonds and his fellow soldiers had concerns about the quality of their jackets, a bigger concern was the tendering process for the jacket contract. Late last year an investigation by the Inspector-General of the Defence Force found the tender for the jackets in 2003 breached procurement guidelines, by giving certain tenderers inside running on the $8 million contract. This was done by specifying in the tender the use of a certain fabric, giving any company using that fabric an advantage over other companies bidding for the contract.

The investigation recommended disciplinary action be taken against two DMO employees. And raised questions about this man — Lawrence Pain, who resigned from DMO to join the winning tenderer.

LAURENCE PAIN, FORMER DEFENCE EMPLOYEE: It just used to astound us where we might have a product that was sort of half developed and they would just say, "Yep, let's give 'em that. That will do." And we would say, "It's not quite finished."

NICK McKENZIE: Laurence Pain was DMO's technical officer on the combat jacket project.

LAURENCE PAIN: I felt very unsure about it, because I thought we could spend all this money and it could be a complete flop. Purely because we didn't know how, over time, the fabric would stand up. So I was extremely nervous and I thought it was pretty stupid.

NICK McKENZIE: Why did you put your name to that tender specification if you were so uncomfortable with it?

LAURENCE PAIN: That was my job. That's what I was asked to do.

NICK McKENZIE: Only weeks after the combat jacket tender was awarded, Lawrence Pain took a job with the winning tenderer, a move he now admits was a conflict of interest.

LAURENCE PAIN: Oh I'm sure it is and I'm sure everybody at the time thought it was.

NICK McKENZIE: Ultimately, Lawrence Pain only lasted a few weeks in his new job but says he is aware of several DMO employees who resigned to work with other defence contractors, seemingly with few qualms from Defence management.

The Inspector-General's investigation was not limited to the questionable tender, or Lawrence Pain's resignation from Defence. The winning tenderer was apparently also authorised to use a cheaper fabric than originally specified, to make the almost 160,000 jacket cuffs but the price of the $8 million contract was not changed. And the Inspector-General is now trying to recover what it says is the cost differential. Some estimates put the amount involved at up to 250,000 taxpayer dollars.

The winning contractor refused to comment on the allegations. The Defence Department would not respond to questions about this money either, stating the jackets were working well, and further comment would be inappropriate at this time.

LAURENCE PAIN: There was always a political angle rather than this is what we need to do, let's get on with it and do it.

DANE SIMMONDS: It's got to come down to the almighty dollar.

NICK McKENZIE: What's also telling is that when questions were first raised about the combat jacket project in late 2003, an internal investigation apparently found nothing wrong.

DANE SIMMONDS: I think that when DMO investigated itself, they realised that, hey, we're in the shit here, we're in the poo here, and they have to — what do we do? What's the action? Do we say that we've done something wrong or do we try and cover it up as best we can? I think they tried to cover it up as best they could.

ROBERT McCLELLAND, OPPOSITION DEFENCE SPOKESMAN: It needs the Auditor-General to actually come in and go through the place with a fine tooth-comb, quite frankly, to look at their tendering processes, their policies in respect to officers obtaining employment with private agencies.

NICK McKENZIE: On top of disciplinary action, the Inspector-General has also recommended changes to the way the DMO clothes and equips the Army.

ROBERT McCLELLAND: I'm concerned that the lack of scrutiny may open up that tendering process to abuse, if not potential corruption, which becomes particularly significant if it affects the basic kit, the basic equipment that our diggers have.

NICK McKENZIE: The Inspector-General's investigation brought little joy to Dane Simmonds, who says pressure from DMO was behind his decision to leave the Army.

DANE SIMMONDS: I received a phone call late at night from a senior ranking person that said "Close the web site now." And I asked why, and they said, "Do you want to keep serving or do you want to go? You can keep running the site but you can no longer be in the Army." I had — as I said — wife and children to think about, and I thought, you know, what do I do?

NICK McKENZIE: In late 2003, the Defence Minister, Robert Hill, told Parliament that his department had adopted "an educative approach and was working with Dane Simmonds to address concerns raised by his web site". But Dane Simmonds says DMO's only concern was shutting him down.

DANE SIMMONDS: I guess when it directly involves you and you're so passionate about your government and

your country, that's when it hurts, and that's when it really, you know, hurts deep.

NICK McKENZIE: Late today the Defence Department issued a statement saying it had informed Dane Simmonds of its concerns that his web site may have breached regulations regarding public comment.

NEIL JAMES: Certainly, as I understand it, some of the things that were done to him and some of the things he was threatened with, I thought were unacceptable. If I had been his commanding officer I would've been screaming blue murder.

NICK McKENZIE: Dane Simmonds walked away from his web site in early 2004 but not before its impact had been felt. A restricted briefing note to the Chief of the Army in mid-2004 states: "...an information offensive to counter criticism of combat clothing and field equipment by Internet sites, the media and an increasing number of soldiers."

The Army has also stepped up efforts to encourage soldiers to use its internal system, known as RODUM, to report on defective or unsatisfactory material. But a leaked Army report states: "The chain of command and the soldiers believe that submitting RODUMs is a waste of time. The RODUM system is not functioning."

And the idea of a forum for complaints refuses to die. Serving and former soldiers, including elite SAS members, are running a new web site to review gear.

ROBERT McCLELLAND: If diggers aren't satisfied with their basic equipment, aside from the performance constraints, they're all factors that result in discontent perhaps leaving the Defence Forces itself, in a time where recruitment and retention is very much a live issue.

DANE SIMMONDS: Soldiers appreciate their comfort, they will stay in longer. I mean, it's — you know, I'm not the only one to have left the Army in recent times, and you'll find that many soldiers leave the Army these days because it is an extremely hard life.

NICK McKENZIE: And those who stayed in will best be able to judge the quality of their jackets, as they spend winter in places like Iraq and Afghanistan.

Cover-up in intelligence

Lance Collins and Warren Reed

[The authors are former Australian intelligence officers with a deep personal knowledge of cover-ups and whistleblowing. This is an extract from their book *Plunging Point: Intelligence Failures, Cover-ups and Consequences* (Fourth Estate, 2005), pp. 263-271 (footnotes omitted), used by permission of the authors. Readers may like to order the book for their local libraries.]

THE PRINCIPLES OF COVER-UP

There is nothing that an intelligence system pursues with more vigour and malevolence than a cover-up. Almost universally this takes the form of 'blowtorching' the individual. It is a calculated act, and one seen to be as important as the need to contain a rogue computer virus before it infects the rest of the network. This process is attended by precision, ritual and meticulous choreography. Its key principles are:

- Make a deliberate decision to cover up.
- Select a seasoned government or military fixer to be the instrument.
- Shoot the messenger — the truth must *never* be revealed — except fragments that support the cover-up.
- Lie big, lie often and lie doggedly — and *never* diverge from the script.
- Let some truth out — in the same way that the insurance industry makes some payments: because if it didn't, the industry would lose its viability.
- Appoint the right judge, investigator or 'stacked' committee.
- Contain initial damage in the public perception.
- Buy time so that the public profile is overtaken by other events.
- Use clever timing to minimize the impact of public announcements.
- Deny information to the truth-teller, imposing burdens of time, energy and expense in forcing them to use Freedom of Information legislation.
- Deflect the responsibility.
- Identify scapegoats.
- Engage in ritualistic cosmetic surgery. What you cannot cover up, turn into a virtue by releasing partial truth.
- Enlist 'useful idiots' to do the dirty work, i.e. compliant or unwitting professionals who, once fed an appropriate line, will 'find' or produce corroborating evidence.
- Go to extreme lengths to portray any leaked documents written by the truth-teller as *nullities.*
- Return to *status quo ante* as soon as possible.

TECHNIQUES OF COVER-UP

> *And if Gilligan had never made that report — if Dr Kelly hadn't bravely told him what he did — there's an awful lot we wouldn't know today which we ought to know about: the way government behaves, about Tony Blair himself and the people he puts around him, and about the way they have now in this country manipulated all public servants to work in their interests — including the security services. — GREG DYKE, BBC DIRECTOR GENERAL, 2004*

So the sorcerer seeks to isolate and neutralize the individual, at the same time that a disinformation campaign is conducted to win public support for the perpetrators.

And the symptoms of cover-up and blowtorching within an intelligence system are overwhelmingly visible — secret meetings, huddles, denial of access, the intimation that 'something important is up'. All this is part and parcel of the operation to get someone, and appears as 'normal' in this world. In the end, the treatment of an exposed traitor and of a truth-teller are the same. Both constitute a threat to the established order.

Here is how this world looks from the blowtorcher's point of view:

The overriding priority — maintain firm political control

In dealing with a likely outbreak of truth, it is vital to ensure that no action is taken unless under clearly defined political direction. Given the sensitivity of such cases, this often requires orchestration at Cabinet level, with close monitoring from the Prime Minister's Office, or if in the United States, from within the White House. Always consider the chance of

invoking a 'you scratch my back, I'll scratch yours' arrangement with the Opposition — which may logically fear that any broad-ranging inquiry, in examining the backdrop to the current problem, will uncover misdeeds on the part of earlier governments.

The relationship between intelligence and political power is the same as between patient and dentist. In this, a patient reclining in the chair at a dentist's surgery watches nervously as the practitioner prepares to examine his teeth. As he leans over, suddenly the patient reaches out and grasps the dentist by the testicles, saying beguilingly as he does so, 'Now, we're not going to hurt each other, are we?'

Don't dither: take immediate bureaucratic action

Deal immediately with the 'crisis' as it unfolds. Seek immediate assistance from allied intelligence services. Remember 1994, when a number of former ASIS [Australian Secret Intelligence Service] officers went public with their complaints about that service — MI6 [the British equivalent service] quickly sent an advisor to Australia to help handle the matter efficiently and effectively. No effort should be spared in endeavouring to 'turn the thing around'. It is essential that the 'story' be changed from one of the system being at fault to one of the truth-teller being to blame. Also, put the word about that the truth-teller has been singled out as the offender.

If an official investigation is involved, and the investigation report reveals the unpalatable truth, have the report reviewed and discredited by an outwardly respectable apparatchik. If necessary, have the report declared invalid, on some technical, legal or other spurious grounds. Make the 'nullity' public.

Language and labels

Use judicious language. This is crucial in smoothing over the troubled waters, and in bringing ambiguity into public perception. After all, language defines thought. In the courtroom hearings and media debates where your system will burn the individual, words define the rules and meaning of arguments. So be sure to portray the truth-teller in a poor light. Their intellectual and moral currency must be debased without delay. Insinuate that the victim has an ulterior motive, one other than the 'national good' or the public's need to know. Apply derogatory labels. Demonize the person taking the principled stand. Familiar labels are 'whistleblower' and 'leaker' — they have plenty of negative connotations. Also, the target is to be commonly referred to as being 'disgruntled', 'junior', 'without access' and 'emotionally unstable'.

Isolate the truth-teller in the community — use the word 'disloyal'. Remember, no matter how badly anyone's treated, they should never talk, and specifically not to the media. Tell everyone this, particularly the truth-teller, their colleagues, friends and acquaintances.

The first public utterances you make about a truth-teller should be that they are 'on stress leave' or 'undergoing counselling'. The target will accuse you of 'harassment' — but continue with your 'support' pursuant to a standing 'duty of care'. Remember that the target is 'tired and obsessed'. Psychiatric assessment and treatment are required for his/her *own welfare*. Choose the medical specialist you trust — there's the need for security clearances and all that. The target, it would seem, was not always inherently unstable, but 'just couldn't take the heat in the kitchen'. It's really tragic, of course — these people were often top performers, but things simply get the better of them. Now she/he has, for whatever reason, lost their objectivity.

Isolate and overload the victim

Don't forget that truth-tellers have their supporters within the system. It's important to identify these people speedily, and divide them. Subversion and blandishments will work. The target truth-teller can be stood down, marginalized, denied access to vital evidence and information. Wherever possible, shift the burden of proof onto that individual's shoulders. They are generally obliged to use their own resources, including time and money, while you and yours have the full coercive and financial power and coffers of the state at your disposal. Hold vital information and evidence close, withhold it from the victim, and carefully and selectively cull anything else — don't think of the law.

Great care must be taken when the victim gives evidence to a 'watchdog' body. They should not be permitted to have a lawyer or corroborating witness/note-taker present. You, on the other hand, work at least in a pair. This pits the word of one individual against our two or more in any subsequent independent investigation.

By your direct and indirect actions now, there will be an impact on the target's family and friends, with social, psychological and administrative dimensions. The target's children will blame him/her because they are harassed at school; the target's friends will be interrogated by the security services. And the administrative consequences will include faltering mortgage and school fee payments, mounting legal and medical bills, and so forth.

Above all, the process *must* be dragged out. And compensation must be denied — or at the very least discounted, for their having *gone public*. Whatever anyone says, this was a stuff-up more than a conspiracy. Remember that.

Initiate witch-hunt without delay

Bullying is good. Immediately deploy your security apparatus against truth-tellers. Their revelations pose imminent danger to national security. If necessary, say, 'It's so secret that we can't tell you, though we dearly wish we could.' Cover up with lightning speed, but make sure the witch-hunts themselves are protracted and well resourced.

Jenkins and Kelly [Australian and British intelligence officers put under enormous pressure and who apparently committed suicide] were regrettable, but when investigating a person of interest consider the remarks of a senior official in the Australian Defence Security Agency who was overheard by one of his deputies: 'Wimp. Serves him right. Supposed to be a professional intelligence officer. Couldn't even stand up to a bit of interrogation.'

Here's the warning — transgression will not be tolerated.

Spin the media quickly, effectively and constantly

It is vital to have the media, as well as selected 'think-tanks' and academics,

on side as soon as possible. Make like a sorcerer — manipulation of the media is absolutely vital to turning the broader society against the victim. In that vitriolic aftermath of the 'sexed-up dossier' and Dr Kelly scandal in Britain, Lord Hutton took the Government's position on virtually all matters, remember? The inquiry effectively damned the BBC and exonerated the Government. So take heart. Both the Chairman, Gavin Davies, and Director General of the BBC, Greg Dyke, were obliged to resign after the release of the Hutton Report.

Selective leaks are most important — to counter any public sympathy that may arise for the truth-teller. The major focus of any government's media campaign must be to get the truth-teller's story *off* the front pages. Replace it with a more benign, even if not favourable, 'big item'. Our governments and heads of the intelligence and security services have been remarkably successful at this — as have all of us within 'model' democracies.

Graydon Carter, editor-in-chief of the US magazine *Vanity Fair* has described how bad news is invariably released late on Friday afternoon.

Time and timing

Follow standard practice — obfuscate so that issues are not resolved. Sooner or later they'll be replaced in the public consciousness by more recent events. Also, carefully choose the timing of any public release of information which the Government finds unpalatable.

Alan Ramsey, a veteran Australian journalist, once usefully described this process of denial in an intelligence bungle as follows:

> Two days ago — on the last day of the parliamentary year — the Defence Minister, Robert Hill, released a one-page statement [revealing] … In other words, the Prime Minister's letter was wrong. His letter eight months ago, on this one point, was a fabrication, not by him but by his 'advisers' … Someone had deliberately switched off the intelligence database. Hill did not tell this to Parliament before it shut down for Christmas, even though he'd known for nine days that Howard's letter had misled everyone. Nor did our Prime Minister bother to go into Parliament and confess the 'mistake'. So who switched off the database, denying its material to army intelligence, and why? Hill did not say. Instead, his statement said, wondrously ... 'The Secretary [of Defence] is pursuing legal and administrative issues.' Good for him. But who did it? And who told the Prime Minister what was clearly a lie? And what has John Howard done about it? Bugger all, it would seem … Bury them under the Christmas Tree.

This grave example is worth studying, for it uniquely involved the incumbent Inspector General for Intelligence and Security directly contradicting the methodology and findings of his immediate predecessor. The Minister, though, dismissed the cover-up, claiming that while the initial investigation was, 'comprehensive it was not exhaustive'. The Government has never had to take remedial action.

Appoint an 'independent' front man who can be seen to fix the problem

At least a semblance of impartiality is required for you to assign this individual who will need to handle the following tasks with dexterity.

• The issue must be generally 'flick-passed' between instruments in order to delay and confuse the target, as well as the media and the public.

• Inquiries should be carefully timed to maximize political advantage, i.e. ignore or delay calls for a royal commission.

• Terms of reference are to be cleverly prescribed.

• The selection of witnesses for hearings can usually be drastically curtailed.

• The list of legal advisors from which truth-tellers can select their counsel should also be severely restricted.

• *In camera* hearings are favoured at every turn.

• Only a narrowly focused 'public report' should be released, so that the *status quo* is reinforced. This public report must, inevitably, reveal some of the truth in order to maintain the credibility of the 'independent checks and balances'. In contrast, a hefty 'internal report' — to be used inside the bureaucracy and only by our trusted confidantes — is to be produced, though its contents are never to be publicly alluded to. It may, to a degree, seek to address the need for reform. But at the same time, we'll often use it on the quiet, as a means of denigrating the victim.

• An inquiry may recommend further investigations, which are aimed at examining issues 'not within the terms of reference'. This valuable technique often diffuses accountability and limits public condemnation of the findings of the earlier process.

So, there you have it. That's how it's done.

A PUBLIC APOLOGY

The Council of the University of Newcastle apologises to you, Donald Nicholson Parkes, and regrets that this matter was not put to rest many years ago.

The University acknowledges that the PhD candidature of Coral Bayley-Jones (deceased 2002) was the subject of concerns raised by Dr Donald Parkes from 1983 to the present. The University acknowledges that the candidature of Coral Bayley-Jones and the awarding of the doctoral degree were problematic and are contentious. The University acknowledges that Dr Parkes has been diligent and has persevered in bringing his concerns to the University throughout that period. Whilst the University has received legal advice that it should not formally revoke that degree, the University has, upon the Vice-Chancellor's recommendation, taken steps to ensure that the doctoral thesis is not to be available for academic or other reference.

The University acknowledges that in 1988 and 1992 its Council resolved to hold a public inquiry into all aspects of the Bayley-Jones candidature, its supervision and its examination. The University also acknowledges that in 1995 you were advised by the University's then Secretary that the public inquiry would be held. The University regrets that it failed to conduct that public inquiry and now apologises for the distress its past decisions have caused. The University now extends the thanks you deserve for wishing only to maintain the highest standards of the University in which you have two higher degrees and at which you were a valued academic member for 28 years.

In view of the above, the University now offers an unreserved apology to you. The Apology is a public apology and will appear, in full, in University publications (including *UniNews* and *Cetus*) and will be published by the University in full in *The Newcastle Herald.*

T. Waring, Chancellor
N. Saunders, Vice-Chancellor
The University of Newcastle
Dated 2 September 2005

The apology & the family

Olga Parkes

As a long-time member of Whistleblowers Australia I am pleased to be able to provide for *The Whistle* the Apology made to my husband, Dr. Don Parkes, by the Council of the University of Newcastle. It relates to events that took place at the University of Newcastle over a 20-year period — 1985-2005. Don left the University nine years before the usual retirement age, under duress.

Don was a senior academic with an international reputation in his field when the issue which is the subject of the Apology began in 1985. His persistent efforts to right a wrong were already being described in *The Bulletin* magazine in September 1986 as "a sustained attempt to defend academic standards." He continued along that course for a further 19 years.

This is a complex and quite incredible story, involving universities in Australia and UK, and does not lend itself to a brief overview. Anyone interested can find many of the details on the Federal Senate website www.aph.gov.au/senate under the section List of Senate Committees, Employment, Workplace Relations and Education, Completed Inquiries 1999-2002 — *Universities in Crisis.* Don's submission is No. 320. After 2002 there was still quite a bit of water to go under the bridge.

Although it cost him his career and gave our family twenty troubled years, Don finally won his victory for academic integrity. He has received warm congratulations from colleagues here and overseas who have followed the course of events over the time. Their support and their letters to the University of Newcastle expressing their deep concern have been much appreciated by Don. And by our family.

There is inevitably a personal, family side to whistleblowing. Most whistleblowers have a partner and/or family watching their story unfold, and although the detail of each whistleblower case is peculiar to that situation, the impact on families, I suggest, would be quite similar. For instance, when the issue first emerges one assumes that it will be quickly sorted out. When it is not, one can find oneself in a Kafkaesque world where answers to serious concerns are not forthcoming.

In almost every issue of *The Whistle* there are stories indicating what whistleblowers can expect, and I found these warnings to be true. Power structures close ranks against the whistleblower and he/she becomes isolated in the work environment. Social networks fall away. I also felt isolated.

Life changed in our family. Future career hopes lay in tatters and Don was preoccupied with a problem caused by others, while at the same time trying to get on with his academic work. It was hard to live a normal life and I found it challenging to keep home and family stable in those circumstances, or to find energy for my own interests. In the early days our three daughters were quite young. It was difficult to shield them from our worries, which they were in any case too young to fully understand.

I recall that our youngest daughter, so upset by her understanding of her father's situation, got on the phone to two different Vice-Chancellors and had her say. I didn't try to stop her, nor did I listen to what she said, but I admired her for it. She told me that on each occasion she was reassured that her father was in the right and everything would soon be sorted out. But it didn't happen.

This wasn't the only manifestation of distress in our youngest child, who was by nature happy-go-lucky. She began to have nightmares about her father being in danger and at one stage took to her bed, not well with something doctors couldn't identify. She even spent a couple of days in hospital for tests to find a physical cause. But none could be found. She recovered after a few months, but much later, at HSC time, she absolutely refused to consider going to university.

If I have a few thoughts based on my experience to pass on to others who are also determined to see an issue through, they would be as

follows. Whistleblower families are put under severe stress, and this can affect health sometimes. Unless families are 100% behind the whistleblower, and entertain not a single lingering doubt as to one or other aspect of the matter, relationships could break down totally, so everyone needs to be strong. Never let go of the knowledge that you are right, are no doubt known to be so, and are speaking out in the public interest.

Document everything and keep all records safe. Although difficult, please try not to let your issue overwhelm your life. Don't put yourself at unnecessary risk. If the "appropriate channels" don't progress the matter within a reasonable time, consider going to the media; good journalists are a great help.

Although in many instances legal help will be invaluable, and certainly without lengthy legal negotiations there would have been no unreserved public apology for Don, actually going to court is not necessarily the way to go. Those who oppose you have a lot at stake, and are probably well able to fund a defence. They won't just roll over because you are right. Court processes could take years of your life and the shirt off your back.

Be prepared that even a "good" resolution to your issue is likely to be only relatively so. It cannot make up for all you have lost, and your sadness and anger will not just go away. The damage has been done and that painful episode, whether long or short, will always be part of your life.

Yes, it's a tough road, but nevertheless, I would like to state my admiration for all those who speak out in the public interest. They are truly the good and the brave in our society.

Involvement of the Deputy Crown Solicitor Perth in protection of criminality

Keith Potter
Life member of WBA

The Costigan Royal Commission inquiry was closed down abruptly after identifying the "Goanna" as the godfather of crime in Australia. The report addressed the Bottom-of-the-Harbour taxation fraud. Some 7000 companies were involved. The scheme cost honest taxpayers billions of dollars. (Mr Kerry Packer admitted to being the Goanna but denied any wrongdoing. The Attorney-General cleared him and apologised.)

Procrastination and prevarication by senior lawyers of the Deputy Crown Solicitor's Perth office allowed the scheme to continue for a decade until responsibility was transferred elsewhere. (An informative account by the Australian Institute of Criminology is available via http://www.aic.gov.au/publications/lcj/wayward/ch9t.html.)

The AIC paper also reports that a prostitution service was being advertised via an official telephone service that was billed to the DCS Perth office. This was a further embarrassment for government.

The same DCS lawyers responsible for the above mentioned debacles also protected senior Perth based quarantine administrators who were protecting vested shipping interests.

The AIC report does not mention that a bulk prostitution booking at the Fremantle waterfront was unwittingly frustrated by a routine quarantine operation, notwithstanding attempted intervention by a corrupt element of the quarantine administration. Nor does it make any reference to possible motivation by the DCS office to protect these offenders.

After two senior quarantine administrators got themselves into an irretrievable situation that permanently compromised the Commonwealth, DCS lawyers advised them closely in the ensuing cover-up. This involved persecution and discrediting of the Senior Quarantine Inspector for Western Australia, Bill Toomer, with a view to inducing his resignation or dismissal.

Bill exhausted every available internal avenue for redress, including notification to the Minister, without success. The Whitlam government was actively encouraging public servants to publicly expose bureaucratic wrongdoing. Bill complied and was smartly charged with making false and unauthorised statements to the media. The charges were drafted by the same DCS lawyer who was central to the first four years of delay in prosecuting promoters of the bottom-of-the-harbour tax scheme.

The quarantine administration promptly found Bill guilty and recommended penalty of dismissal for making false statements to the media.

Bill appealed on the ground of innocence. The regular magistrate declined to hear the case. It was heard by a magistrate who was not a lawyer. The way in which the charges were drafted, coupled with procedures directed by the magistrate, obliged Bill to prove his innocence. The hearing was public.

To make the charge of falsity stick, the Crown presented expert witnesses who testified that the Quarantine Act and Regulations had become unnecessarily restrictive. Bill was refused leave to present expert witnesses who would testify to the contrary. Quarantine legislation was consequently watered down.

The magistrate reduced the penalty of dismissal to demotion. The quarantine administrators transferred him to Quarantine Inspector, Port Hedland, which had no involvement in grain ship inspection. This did not completely honour the quarantine administrator's witnessed and formally filed assurance to the shipping lobby that Bill was being removed from involvement in ship inspection, but did appease the vested grain shipping interests who moved initial vexatious complaints against Bill. When the going got harder, a wider and more influential shipping lobby took over. It conspired with the quarantine administrators to ensure that the officially filed record of the quarantine administrators' commitment was complied with completely.

The DCS office continued to advise the quarantine administrators in this further endeavour. Every further effort was directed to honouring of that commitment. The modus operandi was nakedly directed to discrediting and dismissing Bill, and/or inducing his resignation or retirement. These unsuccessful attempts included suspension from duty for nearly a year on the grounds of mental ill health under recommendation for medical retirement, and an attempt to set him up for a damages action by the owner of a small vessel which, if successful, would justify dismissal. To avoid the

trap Bill partially disobeyed a carefully planned telephone instruction, but was not charged with disobedience on this occasion.

The latter attempt continued after inquiry into Bill's case by Commissioner Paul Munro of the (Combes) Royal Commission on Australian Government Administration. Munro's report criticised the disciplinary and medical procedures involved. The Commission formally recommended independent outside inquiry to ensure justice for Bill (Recommendation No 181). Prime Minister Fraser approved outside inquiry but no such inquiry eventuated.

Instead there was a public service inquiry that whitewashed the situation at further expense to Bill and to his once excellent reputation. Witnesses to the public service inquiry included three of the five DCS lawyers involved in Bill's case, but not the officer who drafted the disciplinary charges. The public service inquiry was obviously aware that the quarantine administrators' officially filed commitment to remove Bill from involvement was a crucial factor, but did not ask the DCS lawyers related questions. Nor did its public report mention that commitment, or that the filed record of it was available.

Without valid justification the inquiry recommended that Bill's future duties should not involve ship inspection. This was included at the department's request. He was transferred from Port Hedland to a specially created overclassified position at the Melbourne Airport where his subordinate staff routinely alternated between ship and aircraft inspection.

He remained officially barred from ship inspection after extensive "full inquiries" by a Promotions Appeal Committee chaired by myself in 1978/9 unanimously reported his competence in ship inspection to be outstanding. His appeal against the junior and most inadequately experienced Health Surveyor from Alice Springs was disallowed unanimously by the Central Promotions Appeal Committee in Canberra. The quarantine authority got the man it wanted for Toomer's former job of Senior Quarantine Inspector for WA — a man who couldn't do the job.

In 1982 the Attorney-General refused me permission to disclose to Toomer's lawyers what I had learned about his case in the course of my public service duties.

The accusation that Bill was an incompetent inspector followed his refusal of instruction to reintroduce a long obsolete ship inspection practice that was intimidatory of ship inspection staff and incapable of honest application. He said it was not possible to make any usefully accurate estimate of numbers of rats on a ship. The DCS at the outset of moves against Bill obviously knew that this was the crux of the accusation; he volunteered this knowledge to the public service inquiry. He also admitted that he was "not happy" with the nature of the disciplinary charges drafted by his second in command.

The quarantine authority persisted with its bogus ship inspection practice until 1989/90 when it was the early focal point of a 40-day hearing by the Administrative Appeals Tribunal. The authority's own expert witnesses rejected the practice as unworkable. The Tribunal upheld Toomer's appeal for amendment of departmental documents that accused him of incompetence and attacked his character and mental health. The Tribunal also sharply criticised the Crown for persisting with an obviously untenable defence.

His lawyers consequently filed a damages action against the Commonwealth. Government lawyers exploited legal technicalities to prevent a hearing on the merits.

Toomer estimates that the 33-year cover-up has cost taxpayers more than six million dollars. Others think it probably cost double that amount. Successive governments continue to refuse parliamentary recommendations that he be compensated, and refuse to provide valid explanation.

One such recommendation was in 1989 by the Minister then responsible for quarantine. The government opted instead for an obviously uneconomic and unlawful inquiry whose unsigned report whitewashed the matter more comprehensively than any previous inquiry.

The Crown Solicitors' office was part of the Attorney-General's Department when this matter started in 1973. It became a separate authority in recent years.

Much more has to be done to halt the ever escalating incidence of criminal governance.

What to do when you've been defamed

Brian Martin

Being the target of scurrilous gossip is no fun. Will suing for defamation help — or make things worse? Are there other options?

Barry* [name changed] was a victim of gossip at work. It went beyond the usual comment and speculation. His mates said Barry was on cocaine and abused his own children. The heavy workplace atmosphere was getting to him. What should he do?

Mary* moved to a small town and was befriended by Charlotte. Mary then found out that Charlotte was saying one thing to her, another to Mary's husband Fred and yet another to neighbours. The suspicions took their toll on Fred, who left town for a while. Charlotte offered to help Mary and Fred sort things out, at the same time telling others about hostility between the two of them. Mary didn't know where to turn.

Nearly everyone has been the subject of gossip, within families, neighbourhoods, workplaces, churches, you name it. Most gossip is harmless, and some social scientists think it plays a valuable role in binding groups together.

But sometimes it gets very nasty. Victims of malicious gossip feel under assault. It seems like the whole world is condemning or laughing at them. In the worst scenarios, damaging comments can lead to arrest, forced psychiatric treatment, removal of children, or suicide.

What should a gossip victim do? Ignore it? Confront the perpetrators? Threaten to sue for slander?

Sometimes the attacks are public. Abdul,* a shopkeeper, was accused of fraud in the newsletter of a local council. He went to a solicitor who said that it would cost ten to twenty thousand dollars to mount a legal case for defamation, with no guarantee of success.

Anyone contemplating launching a defamation suit had better have plenty of money and not be worried about losing a swag of it. As well as being expensive, suing for defamation is also slow and plagued with technicalities. Furthermore, it may not restore your reputation.

Prominent Sydney solicitor John Marsden discovered this to his regret. Channel 7 broadcast two programmes in 1995 and 1996 accusing him of being a paedophile. Marsden sued for defamation from a solid financial base and plenty of legal expertise. Although he eventually won in court, many years later, the process was a nightmare for Marsden. His reputation was further smeared through weeks of damaging testimony. He stated that "It's probably totally ruined my life and my health."

Aboriginal leader Geoff Clark, after being accused in 2001 in *The Age* of having raped four women in the 1970s and 1980s, decided not to sue. Similarly, when damaging rumours were spread about Mark Latham in mid 2004, he avoided the courts and instead made a public statement, asking only that his family not be targeted.

To get a handle on how best to respond to defamatory comments, it is useful to examine the dynamics of injustice in other arenas. In 1991, thousands of people joined a funeral procession to Santa Cruz cemetery in Dili, East Timor, then occupied by Indonesia. Troops, who had accompanied the march, suddenly opened fire without warning, killing hundreds of mourners.

Most atrocities do not generate much outrage, but this one did. The reason: western journalists were present and the massacre was captured on videotape. As a result, the massacre backfired on the Indonesian government.

Perpetrators commonly use five methods to prevent this sort of backfire: cover up the deed, denigrate the victim, reinterpret what happened, use official channels to give the appearance of justice, and intimidate opponents. All these methods were used in the Dili massacre: Indonesian officials tried to prevent images about the events getting out of the country; they denigrated the East Timorese; they produced false stories about responsibility for the events and about the number of people killed; they set up official inquiries that whitewashed the perpetrators; and they arrested, beat and killed East Timorese independence supporters.

These methods had worked in the past, but the video evidence escaped censorship and led to a huge increase in international support for the East Timorese independence struggle.

These same five methods of inhibiting outrage from injustice can be found in many other arenas, including censorship, unfair dismissal, torture, war and genocide. So what about being the target of false, malicious, defamatory comments? The key is to counter each of the five methods.

Cover-up, the first method, is standard practice in rumour mongering. The "sniper" verbally savages you to others but is friendly to your face, thereby reducing the risk of being called to account. Targets of slander should try to expose the perpetrators. Jocelynne* heard that a colleague was spreading rumours about her. She approached the colleague and, in a non-confrontational manner, explained what she'd heard. The colleague denied being responsible — but the rumours stopped.

The second method is denigration of the target. Of course, critical and demeaning comments can cause others to think less of a person — that's the essence of defamation. But beyond this, the person can be further devalued by how they respond, for example becoming angry and abusive or breaking down in despair. By appearing aggressive or pathetic, the target may seem to deserve the abuse.

To reduce the risk of further devaluation, targets should do everything possible to be and appear proper and above board. That means being polite and as level headed as possible, and especially not responding with counter-abuse. Good behaviour highlights the injustice of abusive attacks.

The third method is reinterpretation of the event. Perpetrators may say that they are telling the truth or just passing on what they heard. They will deny that their statements have any malicious intent. Sometimes they claim it's all just a joke.

Patricia* ran a small business. In a television broadcast, the business was inadvertently linked to shady practices. The television station refused to run a correction, so Patricia prepared a short and sober account titled "The truth about our business," complete with references to supporting documents. She posted it on the business's website and gave a leaflet to customers until memory of the broadcast had faded.

Often one of the most effective responses to defamatory comments is to ignore them or laugh them off. This sends the message that the issue is not important, encouraging others to lose interest.

Suing for defamation, or even just threatening to sue, is seldom a good idea, even ignoring the expense, effort, time and uncertain outcome of going to court. When you are a victim of unfair comments, you may receive sympathy, but in suing you become the attacker. Threats and suits are frequently used to suppress free speech.

Worst of all, defamation suits seldom restore reputations. In the worst scenarios, as experienced by John Marsden, they can further damage your reputation. Often they drive critical comment underground, making it harder to respond.

The fifth method of inhibiting outrage from injustice is intimidation. Defamers sometimes threaten targets that any attempt to respond will be met with reprisals, ranging from loss of friendship to dismissal, or even a defamation suit! The most effective response is to refuse to be intimidated and, if possible, to expose the threat.

In summary, when you are defamed, ignore it if possible and get on with your life. If the attacks are too damaging or persistent, try to expose the perpetrator. Present your own perspective in a calm, rational and factual fashion. Avoid courts like the plague. Don't be intimidated. Try to behave as if you're not affected. Finally, behave honourably.

Jill* was attacked on an email list by an engineer. She contacted him and asked for a retraction. He refused and threatened to invoke professional ethics codes against her. Jill ignored this and sent a short, factual response to the email list. In reply, the engineer sent a vituperative email to the list, but Jill ignored it. She knew from comments she received that it was *his* credibility that had suffered.

Draft Minutes of the 2005 WBA Annual General Meeting

Adelaide SA

At 9.15 am on 11 September 2005

1. Chaired by J Lennane, President. Minutes taken by C Kardell, National Secretary.

Jean Lennane

2. There were 21 attendees, including visitors, as follows: J Lennane, C Kardell, F Perera, P Bowden, B Martin, C Crout-Habel, J Pezy, G McMahon, P Bennett, C Adkins, B Passamonte, J Pezy, K Lamba, A Morgan, M Bawden, S van de Wiel, K Sawyer, B Dawson, S Pezy, M Pezy and R Sullivan.

3. Apologies were received from: D Maitland, G Turner, M Vogt, C Schwerin, L O'Keeffe, K Potter, C Pelechowski and P Sandilands.

4. Proxy received from G Turner.

5. Previous Minutes AGM 2004.
J Lennane referred to the previous minutes published in the January 2004 edition of *The Whistle*, a copy of which had been made available to all those present. There being no amendments, the previous minutes as published were accepted as a true and accurate record.

Proposed: B Martin. Seconded: P Bennett. Carried.

6. Business arising: nil.

7. Election of Office Bearers.

J Lennane, nominee for the position of National President, stood aside for Brian Martin to proceed as initial returning officer.

- Position of National President

Jean Lennane, being the only nominee, was elected unopposed: she served as returning officer for the remaining positions.

Cynthia Kardell took the opportunity to thank Jean for making such a sterling effort in relation to the Gary Lee-Rogers inquest and briefly recalled some of the more eventful moments, like the comments made by the NSW Deputy Coroner and later, by the representative of the NSW Police at the meeting of the Internal Witness Advisory Council, who it appears have a far less complimentary view of Jean's leadership than the members of WBA.

The meeting joined Cynthia in applauding Jean for the example she provides for the members and whistleblowers everywhere.

- Executive Positions.

The following nominees were elected to the National Executive unopposed.

Vice President: Peter Bennett [ACT]
Junior Vice President: Kim Sawyer [Vic]
Secretary: Cynthia Kardell [NSW]
Treasurer: Feliks Perera [Qld]
National Director: Greg McMahon [Qld]

- National Committee Members (6).

The following nominees were elected as ordinary members of the National Committee unopposed.

Brian Martin: International Director
Geoff Turner: Communications
Derek Maitland: Media
Shelley Pezy
Matilda Bawden:
Stan van de Wiel

J Lennane congratulated the incoming members, noting that the continuing commitment of talented, professional and strongly motivated members wanting to contribute could only augur well for the organisation.

She noted that J Pezy and P Bowden, as the incumbent presidents of the SA and NSW Branches respectively, were also part of the Committee. Further, that Peter Bowden would retain his responsibility for education.

8. Position of Public Officer.

J Lennane advised the meeting that Vince Neary was prepared to continue in the position of Public Officer, if required. She thanked Vince on behalf of WBA for his willingness to continue in the position.

J Lennane asked the meeting to nominate two members to sign an authority prepared by V Neary, to lodge the required annual fee with the NSW Department of Fair Trading.

Motion moved by B Martin to nominate J Lennane and C Kardell so to do. Carried.

Matilda Bawden

9. Treasurer's Report.
J Lennane tabled a financial statement prepared by F Perera for the period ending 30/6/05. Feliks briefly stated the details as follows:

- Income: $4,500
[Subscriptions, Donations & Interest]
- Expenses: $5,072.97

[Whistle production ($2,295.3), networking etc ($1,135.50) and AGM ($1638) costs]

- Excess of Income over Expenditure: $572.97 Debit

Balance Sheet at 30 June 2005.

- Accumulated Fund Balance B/fwd: $7,756.46
- Less excess of expenditure over income ($572.97)
- Accumulated Fund C/Fwd $7,183.49

Assets
Book account $236.20
Balance at Bank $7,183.49

J Lennane called for the Treasurer's report to be accepted as a true and accurate statement of accounts.

Moved: G McMahon. Seconded: P Bennett. Carried.

Business arising.

1. Brian Martin asked whether WBA should fund the expenses of speakers at interstate or overseas conferences, for example, Peter Bennett, who is to represent WBA at the OECD Conference in Beijing in 2006.

Peter Bennett raised the financial difficulties faced by most members in even attending the AGM, for example the WA members. He suggested we consider a 'contribution', to be 'topped up' by the member. Cynthia Kardell thought financial assistance should be confined to overseas travel, as the rotation of the AGMs could effectively share the load in terms of the AGMs. Peter Bowden thought the solution could lie in an assessment of the benefit to the organisation. Jean Lennane encouraged members to consider attending conferences, because of the opportunity to network, to maintain a presence for WBA and for reasons of professional development. Brian Martin reminded the meeting of the current financial demands made on the organisation, for example, booklets, *The Whistle,* networking and AGM costs and that this question had to be considered in the overall context of whether we could generate more income. Greg McMahon calculated the monthly expenditure at $500 per month: he proposed we set up a subcommittee to devise a list of priorities and look at the possibilities of raising the revenue to fund them. Seconded by B Martin. Carried.

B Martin, P Bowden, G McMahon and F Perera to comprise the subcommittee.

2. Greg McMahon asked whether WBA should consider updating the pamphlet titled 'Whistleblower cases of national significance'. Meeting determined the subcommittee could deal with this issue.

10. REPORTS

- Report from the President

Jean had earlier reported in opening the AGM on her activities, including her involvement in the Gary Lee-Rogers affair and that there was every indication that the NSW Police appeared to be turning away from the good reforms it had put in place since the Wood Royal Commission. Here, Jean confined herself to the ongoing campaign of the Friends of Callan Park, and the scandal of the increasing numbers of sick and homeless people, who are turning up in our gaols. In doing so she reminded the group that a whistleblower's work is never done and pointed to the now discredited but unremedied Richmond Report (the subject of her first whistleblowing efforts).

Jean urged members to consider other options to get hold of sensitive documents; for example, the Greens have twice got a motion through the Upper House to get sensitive documents, to good effect.

- Report from the ACT

Peter Bennett provided an update, in lieu of a formal report. The Moomba gas pipeline story is continuing to gather momentum and is proving to be well founded. Peter has acted as go between for the whistleblower. The Australian Securities & Investment Commission and the relevant Minister have been informed, a good investigative journalist is involved and so far, the whistleblower continues to be anonymous to all those that matter.

ACT involvement in the University of Canberra and Sports Commission story continues. An application to the Administrative Appeals Tribunal has produced bucket loads of documents, mostly subject to claims of professional privilege, which they are in the process of challenging.

Mary Lander has been ill and not her usual productive self. He urged members to keep her in our thoughts.

- Report from Queensland

Greg McMahon reported on their involvement and formal submissions to:
(1) The Tony Morris Inquiry into the activities of Dr Patel aka Dr Death. Morris, who was famous for his involvement in the well known Lindeberg case, was removed for showing 'ostensible' bias and replaced by former judge Davies QC.
(2) Inquiry into the 'Shreddergate' affair (the shredding of documents in the Lindeberg case) chaired by MP Bronwyn Bishop. The Police Commissioner recommended the circumstances warranted further inquiry by the Police.

The Whistleblowers Action Group made a joint nomination of Greg Maddox, CEO in Premier Beattie's office, and Nathan Moore as Whistleblower of the Year.


Shelley Pezy

- Report from South Australia

John Pezy provided an update on a year of steady work, including their preparation for the AGM. He continued to mentor Angela Morgan, whose

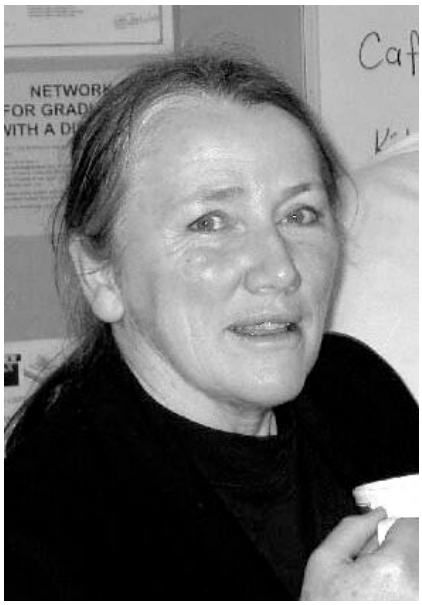
story had been the subject of previous AGMs and, only recently, he has become involved with another member, Jenny Fox, who has got a student pressure group going in the King's Baptist Grammar School saga, which was proving effective.

- Report from Victoria

Stan van de Wiel reported, tongue in cheek, that the Victorian Police have determined that Victoria is 'crime free'. Stan is not holding his breath. He is assisting a WA guy, Jan Ter Horst, who has been jailed for contempt. Lori O'Keefe has settled a couple of matters through mediation. They are supporting a whistleblower lecturer from Monash University in relation to a 'super bug' scare and Stan continues to progress some outstanding issues in his own matter.

Kim Sawyer updated the meeting on the current shenanigans at the University of Melbourne, ongoing corruption in the Police Force and his contact with a whistleblower in the prison system, who has been compromised by the Minister for Police.

- Report from New South Wales



Cynthia Kardell

Cynthia Kardell reported that Peter Bowden had taken over as NSW Branch President: she remained the convenor of the Tuesday Care & Sharing Meetings, which continue to be blessed by the fortnightly attendance of Derek Maitland and Peter.

The NSW Branch had been busy supporting whistleblowing throughout the year; for example Jean is a regularly reported in newsprint and on the radio, Cynthia has done a few radio interviews, and Derek has managed to get into print on a couple of occasions.

Jean, Debbie Locke and Cynthia continue to urge the NSW Police to stay on the straight and narrow, generally and in relation to individual matters that come to our notice privately and in the press, in our capacity as members of the Police IWAC Council.

Jean and Debbie have made an outstanding contribution with the Gary Lee-Rogers inquest, which they think is not over yet (until the fat lady sings!).

Peter put in his own submission to the parliamentary review of the NSW whistleblower act, the Protected Disclosures Act NSW 1994. Cynthia did a submission on behalf of the Branch. The developing issues appear to be 'what constitutes a protected disclosure' and whether there should be the opportunity to bring a 'civil claim'. Cynthia urged the committee of inquiry to establish a Public Interest Disclosures Agency (PIDA) to receive, lodge (on behalf of the whistleblower) and monitor disclosures and to be able to injunct those employers that threaten dismissal and/or retaliation. A PIDA would distance the whistleblower from the disclosure and hassle the investigative agencies and employers and others. Cynthia also urged the committee to draft up our own False Claims Act to allow for *qui tam* actions in NSW. [A *qui tam* action is a legal action brought by an individual on behalf of the government.]

- Report from International Director & Editor of *The Whistle.*

Brian Martin reported he continues to be in contact with the UK group, Freedom to Care. He reported there was not a lot being done to bring the groups from each country together, but that 'net' contacts between students, academics, whistleblowers and others are growing exponentially, which can only be a good thing.

Brian made the usual editor's lament! Brian wants more contributions for *The Whistle.* He reported that some of the most popular articles on his website were the ones about defamation. They are relevant to WBA because of the article titled 'Deaths of Convenience' in the July 2004 issue of *The Whistle,* which is the subject of a complaint from former Senior Assistant Commissioner Walsh, who has alleged it is defamatory. [See page 16 in this issue.]

Finally, Brian asked the meeting whether they would allow their names to be published in the draft minutes in *The Whistle.* All agreed.

Jean thanked all present for making the AGM a memorable one. She asked them to show their appreciation for the SA Branch.

Meeting closed 12 noon.

STOP PRESS: the 2006 AGM will be hosted by Queensland.

Greg McMahon

Whistleblowers Australia contacts

ACT: Peter Bennett, phone 02 6254 1850, fax 02 6254 3755, whistleblowers@iprimus.com.au

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 at 7.30pm, Presbyterian Church Hall, 7-A Campbell St., Balmain 2041.
General meetings are held in the Church Hall on the first Sunday in the month commencing at 1.30pm. (Please confirm before attending.) The July general meeting is the AGM.
Contact: Cynthia Kardell, phone 02 9484 6895, messages 02 9810 9468, fax 02 -9418 4431, ckardell@iprimus.com.au
Website: http://www.whistleblowers.org.au/
Goulburn region: Rob Cumming, phone 0428 483 155.
Wollongong: Brian Martin, phone 02 4221 3763.
Website: http://www.uow.edu.au/arts/sts/bmartin/dissent/

Queensland: Feliks Perera, phone 07 5448 8218, feliksperera@yahoo.com; Greg McMahon, phone 07 3378 7232 (a/h) [also Whistleblowers Action Group contact]

South Australia: Matilda Bawden, phone 08 8258 8744 (a/h); John Pezy, phone 08 8337 8912

Tasmania: Whistleblowers Tasmania contact: Isla MacGregor, 03 6239 1054

Victoria
Meetings are normally held the first Sunday of each month at 2.00pm, 10 Gardenia Street, Frankston North.
Contacts: Stan van de Wiel, phone 0414 354 448; Mervyn Vogt, phone 03 9786 5308, fax 03 9776 8754.

Whistle
Editor: Brian Martin, bmartin@uow.edu.au, phones 02 4221 3763, 02 4228 7860. Associate editors: Don Eldridge, Isla MacGregor, Kim Sawyer. Thanks to Cynthia Kardell and Patricia Young for proofreading.

Apology to Peter Walsh

Background
Peter Walsh threatened a defamation action against *The Whistle* because of two sentences in the July 2004 issue. As described at some length in the November 2005 issue, I negotiated with Mr Walsh over an apology. This is the agreed final form. — Brian Martin, editor.

Apology to Peter Walsh
Two sentences appeared on pages 10 and 11 of the July 2004 issue of *The Whistle* (No. 38) in relation to matters involving Mr Peter Walsh, Senior Assistant Commissioner of the New South Wales Police, now retired.

Concerning the sentence on page 10, none of the following possible imputations has any basis: that Mr Walsh had knowledge of impropriety; that he had knowledge of misconduct; that he deliberately refrained from comment so as not to expose the NSW Police or its then Commissioner to embarrassment; that he covered up impropriety or misconduct in relation to the circumstances involving the death of former Sergeant Hazell; that he was involved in perverting the course of justice or defeating the ends of justice; that he engaged in any of the above in order to protect his position as Senior Assistant Commissioner of the NSW Police at the time and to ameliorate any publicity directed at the NSW Police.

Concerning the sentence on page 11, retired Senior Assistant Commissioner Peter Walsh was not a friend of Bob Williams during the period referred to in the article containing the two sentences or at any other time.

The Whistle is informed by Mr Walsh that he has at all times acted with integrity and honesty in the execution of his duty whilst a serving member of New South Wales Police.

The Whistle regrets any embarrassment to Mr Walsh caused by incorrect statements or imputations in the July 2004 issue.

The Whistle unreservedly apologises to Mr Walsh for any hurt suffered by him as a result of incorrect statements or imputations published in *The Whistle* in July 2004.

Whistleblowers Australia membership

Membership of WBA involves an annual fee of $25, payable to Whistleblowers Australia, renewable each June. Membership includes an annual subscription to *The Whistle*, and members receive discounts to seminars, invitations to briefings/ discussion groups, plus input into policy and submissions.

If you want to subscribe to *The Whistle* but not join WBA, then the annual subscription fee is $25.

The activities of Whistleblowers Australia depend entirely on voluntary work by members and supporters. We value your ideas, time, expertise and involvement. Whistleblowers Australia is funded almost entirely from membership fees, donations and bequests.

Send memberships and subscriptions to Feliks Perera, National Treasurer, 1/5 Wayne Ave, Marcoola Qld 4564. Phone 07 5448 8218, feliksperera@yahoo.com