

The Whistle



APRIL 1996

NEWSLETTER OF WHISTLEBLOWERS AUSTRALIA INC

PO BOX M44, MARRICKVILLE SOUTH, NSW 2204

FROM THE NATIONAL PRESIDENT

In March and April, I spent one week each in Perth, Adelaide and Hobart, meeting whistleblowers for much of the time - and there are plenty of others I didn't meet. There are more than enough people in Western Australia to form a branch of WBA; all it requires is a volunteer to call meetings. But anyone who takes on the task is likely to receive many further requests for information and the like, so I can understand the reluctance of those who are overwhelmed with their own cases to take on an additional burden. In Adelaide I had a fruitful meeting with the SA branch members, several of whom are taking initiatives on a variety of cases. In Tasmania, Isla MacGregor capably organised a series of talks and meetings for me. She is launching a series of monthly meetings for a Tasmanian branch.

In each of my stops I interviewed whistleblowers about the lessons they had learned from their experiences, among other topics. At some stage I hope to write something about the insights from these meetings.

Matilda Bawden has agreed to become National Secretary of WBA. She takes over from Shane Carroll, who is happy to step down due to the enormous demands in his own life. All positions are up for election at the annual general meeting in the latter half of this year.

Enclosed with this newsletter is a

copy of the current contacts for the Network for Intellectual Dissent in Australia (IDiA). There is nothing more to IDiA than this list - no organisation, no meetings, no spokespeople. Isla MacGregor and I maintain the list, which was set up in 1993, before we took our present positions in WBA. IDiA provides a convenient way to make contacts with people potentially willing to help whistleblowers and other dissidents.

If you would like to become a contact on the IDiA list, contact Isla MacGregor or me and we'll send you a form to fill out.

At the 1995 annual general meeting of WBA, a large group of us discussed electronic networking. One outcome, after great delays, is a web page on whistleblowing and suppression of dissent, attached to my home page at the University of Wollongong. Charles Willock and Frank Nejad were especially helpful along the way. You can access the page at <http://www.uow.edu.au/arts/sts/bmartin/dissent/>. (For those not familiar with the Worldwide Web, it's a type of electronic publishing that makes texts and pictures available to anyone around the world with suitable equipment.)

The web page is still in preliminary form. If you have material to add, suggestions for improvement, comments for publication, or whatever, let me know.

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Lots of work has gone into planning the WBA conference scheduled for 29-30 June in Melbourne. It should be a great opportunity to meet like-minded people from around the country. The WBA national committee will be holding a meeting on Friday 28 June. Some of us have talked about holding a strategy meeting for WBA for the afternoon of that day. If you're especially interested let one of us know so we can provide details. □

Is WBA's National President unduly conservative?

Our national president, Dr Brian Martin, will not press the government for prompt mediated settlement of Bill Toomer's case, but offers to write along the following lines:

"The case of Bill Toomer is one of the most well known and long standing whistleblower cases in Australia. Since the inception of the organisation, members of WBA have been seeking a fair resolution of the case. I enclose a selection of key items about the current state of the case, including a recently prepared account by members of WBA making the case for mutually agreed settlement. I urge you to give this material your prompt attention and for you to seek a speedy resolution for outstanding matters."

Brian refers to a formal statement by the national committee that WBA "does not normally act as advocate for individual whistleblowers... Individuals should not expect WBA to provide formal endorsement for their cases or to campaign on their behalf."

Whilst the statement rightly provides protection against cases which may turn out to be fraudulent, it clearly does not preclude national support for selected cases.

In February 1994 our then national president, Dr Jean Lennane, wrote to each member of both Houses of Federal Parliament pressing for inquiry into Bill Toomer's case. The Senate Select Committee on Unresolved Whistleblower Cases subsequently heard evidence from Bill and myself, and invited evidence from the Merit Protection and Review Agency (MPRA). The Senate Committee reported that on the evidence, it preferred the findings of the Administrative Appeals Tribunal to those of the MPRA. When tabling the report, the Committee's chairman, Senator Shayne Murphy, noted the markedly different findings. He added his belief that Mr Toomer had suffered personally and financially as a result of incorrect decisions and poor administrative procedures, and that he should be exonerated with consideration being given to compensation.

As Bill's case is consequently proven beyond valid doubt, it warrants WBA's continuing strong and unequivocal support.

The apparent softening at the helm prompts questioning of the

national committee's intentions in relation to Mick Skrijel's case. Will the national body continue to feature Mick's case as the litmus test of the integrity of the government's intentions toward public interest whistleblowers? Will the national body continue to publicly press for a royal commission as recommended by David Quick QC in his capacity as the government's appointed investigator?

It is now six years since the Justice Group of the North Belconnen Baptist Church publicly submitted that it appeared from the evidence in Mick's case that the National Crime Authority was protecting drug trafficking. I refer to submissions 14 and 19 of November 1990 to the Joint Parliamentary Committee on the NCA. Every subsequent development, particularly the government's rejection of Mr Quick's recommendation, points to the accuracy of that submission.

The national committee's statement that WBA "does not normally act as advocate for individual whistleblowers" should not be used as a device to escape advocacy of cases which clearly warrant support in the interests of justice and general benefit to the community.

Successful advocacy of proven cases will, in my considered view, do comparatively more to enhance WBA's credibility and clout than the commendable pursuit of effective whistleblower protection legislation from reluctant governments. □

KEITH POTTER
Hon Life Member
8 March 1996

Brian Martin writes:

I welcome Keith Potter's letter about the sort of stands WBA's national committee should be taking. Members of the national committee have discussed this at some length, without full agreement on every matter. We would welcome hearing from members.

On the specific matter of Bill Toomer's case, there are several points to make. First, I am not happy about signing a letter, to the Prime Minister or anyone else, that I did not compose myself. Strictly speaking, this is plagiarism, namely taking credit for the intellectual work of someone else without proper

acknowledgment. I have written some articles about plagiarism and prefer to avoid it myself! Furthermore, some people contact WBA because work of theirs has been plagiarised. Just because what I call "institutionalised plagiarism" happens all the time in the public service and other organisations doesn't mean WBA should use the same methods. In my view, this sort of plagiarism is a type of intellectual corruption – and it's standard practice.

However, plagiarism isn't the main point. I could, after all, compose my own letter about Bill Toomer. But in order to sign a letter making various detailed claims about Senate committees, actions by solicitors and Bill's personal situation, I want to be personally knowledgeable about the facts. Of course, I trust Keith and have no doubt that the letter given to me to sign is accurate. Nevertheless, I want to know it myself. I want to see documents to back up the statements I make. If I'm asked by some politician or public servant about some claim I've made, I want to be able to find the answer in my files, if not in my head. Furthermore, if I'm signing a letter on behalf of WBA, then in principle all the members of the national committee should be similarly briefed.

To avoid these problems, I suggested to Keith that he prepare an information document and that I enclose it with a short cover letter such as the one he quoted. Personally, I don't think this procedure will weaken WBA's impact on Bill's case. Keith and I agreed to disagree on this.

WBA continues to call for a royal commission into the National Crime Authority in relation to claims made by Mick Skrijel. Various members have taken action on this, including putting out media releases, helping Mick prepare a leaflet, helping distribute the leaflet and organising a public meeting.

Over the coming months I hope to find out from insiders in the public service and elsewhere how whistleblowers can improve their chances of success when writing to politicians, appeal bodies and the like. If you have any comments or suggestions, please let me know.

BRIAN MARTIN
National President

Whistleblower gagged!

Media suppression of police corruption in Victoria

By RAYMOND HOSER (author of *The Hoser Files – The Fight Against Entrenched Official Corruption*.)

“There is no police corruption in Victoria.” “Victoria has the finest police force anywhere”, and similar quotes are common in the Victorian mainstream media. While in Victoria, the newspapers don’t mind admitting that there is something rotten about the police forces in other Australian States such as New South Wales and Queensland, they refuse to admit to even the slightest corruption in this State. It seems that once one crosses the Murray River at Albury, the police suddenly become holier than the Vatican (as the saying goes). While it is absurd to expect all 10, 000-odd uniformed police in Victoria to be incapable of doing wrong, this is the very line being peddled by the Victoria Police and their allies in the mainstream media.

In spite of the senseless shooting of over 30 civilians (the same as all other Australian police forces combined) in recent years – many of whom were unarmed – not once has the Police Commissioner or his expensive media unit said “our officer made a mistake”, “our man made an error of judgment”, “we are only human”, or anything similar. Every time another civilian has their brains blasted out by the police or someone elsewhere alleges misconduct in the Victoria Police, the media and police attacks their critics with all means available. To criticise the police force – no matter how constructive the criticism – is automatically treated as treason.

A litany of misbehaviour

Recent (1994-6) examples of police misconduct and/or corruption in Victoria include the following cases.

Victoria is by the admission of police themselves, now the illegal drugs capital of Australia. Whistleblower Mick Skrijel and LawWatch President Peter McCartney referred to the evidence given on National Television (Channel 7) by respected private investigator, Mr Norman Matthews, that he had information of parliamentarians and senior police involvement in drug trafficking and drug protection in Victoria. Their views were not

reported by the media, even though reporters were in attendance.

King Street Melbourne, is now one of the most violent and dangerous places to go out in all of Australia. Assaults are a daily occurrence. In many parts of Melbourne, the streets are now unsafe. Recently 11 off-duty police were allegedly involved in a brawl at the Public Bar in Victoria Street, North Melbourne.

A police whistleblower, Constable Karl Konrad, tells of entrenched corruption within his own police force and alleges widespread corruption involving smashing windows and other matters, involving over a hundred fellow officers. He is removed from the force and charged with “leaking” important information.

A senior Internal Investigations Department (IID) official (Tom McGrath) confirms entrenched police corruption and a “brotherhood”. Another officer, Inspector Barbara Oldfield made similar and even more damning statements about corruption in the Victoria Police (transcript of her conversation is in *The Hoser Files*). The media refuse to report the Oldfield allegations on the basis that they are “too hot to handle”.

A recent inquiry (Operation Bart) uncovers a scam whereby corrupt police allegedly turn a blind eye to crimes by panel beaters and tow-truck drivers in return for secret repairs to police cars smashed up when being improperly used, in order to prevent the officers being charged or disciplined.

The State’s road toll for the first time in some years is now on the rise. A disproportionate number of crashes involve police officers that have drunk excessive alcohol.

Six police in one car recently smashed the car outside Knox shopping centre on a Friday night, with the driver over the legal alcohol limit and another officer going to hospital and lying about how he’d got his injuries. He’d falsely claimed assault.

Another police officer, (Terrence Olsen) kills a young push-bike rider on New Year’s day, by running him over when drink driving after a party and then attempting to hide his crime

by self repairing his own car to hide the damage. He is then allowed to retire from the force on full benefits.

Yet another police officer (Grant McPhie) kills himself after driving at least 163 km/h in an 80 km/h zone, while having a blood alcohol level over three times the legal limit. Scores of other police officers crash cars while drunk.

Police attempt to suppress an internal report that documents excessive drinking of alcohol as a major problem in the Victoria Police. It was leaked by a whistleblower.

An Assistant Commissioner (Brian Church) recently refuses to allow journalists from the *7.30 Report* to ask him questions at a press conference, because he is worried about potentially adverse criticism or exposure. Previously he allegedly ‘pulled’ an ABC documentary about police violence in the Flemington/Ascot Vale area of inner Melbourne.

A book the police have attempted to suppress (*The Hoser Files*), details repeated cases of bashings, thefts, perjury, court fixing, cover-ups and other misconduct in the local police, as well as gross failures of the Victorian Ombudsman’s Office to act on proof of police and other public service corruption. This book is the single biggest exposé of corruption in Victoria’s history and yet the mainstream media have black-banned it (see below).

A key witness into a police corruption inquiry, Mr Tony Rossi was allegedly set-up by police and improperly jailed for three months, while the Sergeant (Beardsley) who was the subject of the investigation was allowed to retire from the force with a \$240, 000 pay out.

Police refuse to hand over investigations of police to an independent authority, insisting on the use of a police Internal Investigations Section to do such work under the benevolent guidance of the State Ombudsman’s Office, which also relies on police to do most investigative work, even after the Queensland Fitzgerald report and NSW Wood Royal Commission Interim Report noted that such a complaints mechanism

failed to work effectively.

Police reject repeated calls from a wide range of political and community groups, including Whistleblowers, LawWatch, Coalition Against Police Violence, Victims of Crime League, Australian Council For Civil Liberties, Australian Civil Liberties Union and others for a royal commission, even though if they had nothing to hide, then they should have nothing to fear from such an inquiry. Furthermore they would be expected to welcome such an opportunity to show potential critics that all is well within the force if in fact no corruption exists.

Media cooperation

The editor of the *Sunday-Herald Sun*, Alan Howe gagged a senior journalist from the same paper, Fia Cumming, from discussing *The Hoser Files* and police corruption on the *Couchman* radio program on 17 January this year.

In other words, the police force in Victoria is in a total mess and the public is literally being held to ransom.

In late 1995 I published the book *The Hoser Files – The Fight Against Entrenched Official Corruption*. As already stated, the book detailed corruption in the Victorian police force, taxi industry, legal system and elsewhere in a manner like no other book in Australian history.

Because almost the entire book is based on tapes, transcripts and the government's own material, the contents of the book cannot be denied. Thus although the book names (and has pictures of some) corrupt judges, magistrates, police, politicians, public servants, lawyers and others, not one has yet sued me for defamation. (Brian Church is on the record as stating that he was diverting police resources into the investigation of the possibility of successfully suing Hoser over the book, even though the Victoria Police department is legally bound and cannot sue for defamation.) They, meaning those adversely named, can't sue for defamation, as all the material is true and correct and it is in the public interest to be published. This is in theory anyway.

Instead there has been a deliberate campaign of suppression of the book. In spite of a massive publicity campaign for the book, not one single mainstream paper or television network said a word about the book. A Vicroads lawyer documented in the book as corrupt, Mr John Connell, Kevin Loomes of the police media

unit, dishonest Member of State Parliament Mr Victor Perton, and others went out of their way to kill the story. All these people took it upon themselves to kill any publicity for *The Hoser Files*, before it even started. All contacted newspapers and other media outlets to make sure not a word about the book was run. Their key tactics were an attempted character assassination of myself, usually involving false and defamatory accusations about myself.

To kill *The Hoser Files* as a public story wasn't hard as both the *Herald-Sun* and *The Age* have been pro police (read anti-exposing corruption) for some time. A former solicitor for the *Herald-Sun* has now been appointed as a Supreme Court judge, and because *The Hoser Files* detailed corruption in that court, the book wasn't to be given support. The editor of *The Age*, had a relative in the police media unit, so the conflict of interest there was obvious.

Because I had directly sold large numbers of *The Hoser Files*, besides what had gone through the book trade, many people attempted to get the story of the book into the media. All were told it was black-banned.

Police bashed by seven stone woman

In September 1995, a lady, Connie Cassar, entered a court room where I was fighting false police charges. She was promptly grabbed by police mistakenly thinking she was with me. (I hadn't known her at the time.) Police carted her off and then bashed her, before charging her with multiple counts of assault. She weighed about 7 stone, was about 5' 2", and police claimed she assaulted a whole heap of them! Besides the fact that they were apparently unhurt and she had to go to hospital after the attack, police pursued Cassar with more determination than Australia's most wanted.

That case was heard at Melbourne Magistrate's Court in February this year. Cassar had lost the case before it started. The magistrate hearing the case was Raff Barbario, a man with more form than a race horse. He refused to allow anyone to tape the case, including rejecting repeated calls by Cassar for an official court recorder to do the job *at her cost*. Barbario didn't want independent scrutiny of the case or his 'finding' to be able to be questioned. Also, by preventing a transcript being obtained, perjury by police could not be actioned.

Cassar was able to indicate per-

jury by various police. She was also able to show that an alleged wound on a policeman may have been self-inflicted, rather than deliberately inflicted by her (as police alleged), due to the alleged delay by police in seeking medical attention – Constable Calkin only decided to see a doctor two days after the alleged assault by Cassar! Furthermore, police conveniently failed to produce video surveillance film of Cassar that was taken at the court (you see that too may have shown her innocence).

Barbario convicted and fined Cassar \$750 plus costs and she now intends appealing the matter.

The significance in the story is that when *Herald-Sun* journalist Anita Quigley decided to run the story of the Cassar bashing, she made it clear the name Hoser, or *The Hoser Files* was not to be used – it was black-banned. And so it was.

On an almost daily basis, the *Herald-Sun* runs stories and editorials that are so pro-police in terms of bias (pro-police here meaning pro-police corruption, cover-ups, etc.) that they invite response from those who view things differently or with a more balanced viewpoint. And yes, on an almost daily basis the paper has been flooded with letters calling for royal commissions, inquiries, and so on. Few of these get published. Those that do are always heavily edited, with all references to *The Hoser Files* deleted. This has happened several times. A recent example being a letter to *The Herald-Sun* by Keith Potter of Whistleblowers with the centrepiece of his letter, referencing *The Hoser Files*, edited out under the guidance of letters editor David Aldridge.

Perhaps even more damning is the treatment of *The Sunday Herald-Sun* of one of its own journalists. Fia Cumming, one of Australia's most respected political and investigative journalists wrote a series of stories relating to *The Hoser Files*, police corruption and so on. Senior staff on the paper ensured they were not run. Cumming was told that the main reason was that people associated with Hoser's court cases (on the police/Vicroads side), had led staff at the paper to believe that he was "a crook".

The newspaper made no attempt to verify the claims against Hoser and refused to discuss it with Cumming. It also goes without saying that the newspaper staff who'd received this advice, including Heather Kennedy, who'd personally spoken to John Connell of Vicroads (a man proven to

have committed perjury himself), refused to return phone calls or speak with myself (Raymond Hoser). In other words the truth was never being sought.

Fia Cumming was later approached to appear on ABC radio to discuss the book, police corruption and so on, before her editor, Alan Howe faxed her, telling her not to go on. This was yet another attempt to kill the story of *The Hoser Files*, lest the rat get out of the bag.

Couchman mentioned this 'pulling' of Fia Cumming on his show, and later made further inquiries with the *Herald-Sun* editors about it. They denied having sent such a fax, blaming Fia herself for withdrawing from the radio broadcast. The clear implication being that either Fia had lost her cool or *The Hoser Files* wasn't worthy of such comment. Of course Couchman had been lied to. I have both the fax from Alan Howe and the tapes of Couchman's conversations with me (dated 17 and 31 January 1996). Cumming's employment with the paper was terminated shortly after this incident. Couchman on 17 January also revealed that *Herald-Sun* editor Steve Harris had spoken to him the night before the show apparently to entice him to kill the story.

In other words the police and their allies in the media were not just ignoring *The Hoser Files*, but rather going out of their way to kill the story. So far they've succeeded. The question then begs: what have these people got to hide?

If you've read *The Hoser Files*, you'll know what they are hiding. Besides detailing police corruption, the book details corruption throughout the legal system, bureaucracy and elsewhere. The ramifications of what is in this book is perhaps far wider than the scope of the present NSW Police Royal Commission, which so far has been pretty much confined to just police corruption. I cannot say that the corruption within *The Hoser Files* is unique to Victoria. It is almost certain that similar corruption exists in other Australian states. It is just that *The Hoser Files* represents perhaps the first exposé, of the corrupt policing and legal system at work and their various interfaces.

In order to kill *The Hoser Files* and my credibility, the Victorian Taxi Directorate cancelled my source of income, namely my taxi driving licence. This was clearly in retribution for publishing the book about corruption. However Terry O'Keefe, head of the Taxi Directorate (and

adversely named in *The Hoser Files*) may have done himself a disservice in cancelling my taxi driving licence.

Forced to earn an income in order to survive and attempt to promote *The Hoser Files*, I took to door knocking businesses and houses to sell the book. As author of four books, including *Smuggled - The Underground Trade in Australia's Wildlife*, I have never been forced to do this before, (my first three titles sold their first print runs).

Within a matter of a few week's spruiking I sold over 1,000 books earning more than I would have by driving a taxi anyway. You see, there is a vast number of people out there who know or suspect what corruption is going on, but who just don't know where to get the information. More importantly however, over 1000 Victorians have now become aware of the corruption within their state and the concerted media campaign to suppress knowledge of it.

The *Hoser Files* and knowledge of it's contents (corruption in Victoria) is probably now reaching such a critical mass that the mainstream media will find it increasingly hard to ignore in future. Stay tuned and watch for the next bombshell - The Commission of Inquiry into the Victorian Police, Judiciary and Public Service. We're hoping anyway! □



PS . I forgot to mention what happened before *The Hoser Files* came out. On February 18 1994, police (armed with a search warrant) raided my house, emptied my filing cabinets, stole all disks, computer, printer, tapes, etc., in a bid to stop me publishing the book. Most material was not returned and material such as disks and the computer (which were returned) were damaged beyond repair. Fortunately I had backups of most things.

Then prior to publication a number of major book printing outfits were told by police officers not to print the book. They buckled under the police pressure. Finally, and after much unnecessary legwork, the book was secretly printed by someone friendly to the cause of exposing corruption. It makes Australia sound a bit like eastern Europe under communism, doesn't it! □

(*The Hoser Files - The Fight Against Entrenched Official Corruption* costs \$20 (including postage) and is available from Kotabi Publishing, PO Box 599, Doncaster, Victoria, 3108, Australia.)

Police inquiry evidence

Letter to *The Sydney Morning Herald*, Thursday, April 4 1996

Each week as the police royal commission wends its way through some of the most vile forms of corruption imaginable, NSW gets closer to rooting out the core that has allowed this to flourish.

Let us not allow this commission to be stopped until it has run its full course and the problems are laid out in full view of all citizens, so they can be seen to wither and die.

All right-thinking Australians should be very alarmed at the size and spread of vile pedophile rings throughout our society.

A culture that does not offer full protection to its children is not a civilised culture.

Let us not forget that it was John Fahey's Coalition Government in NSW which fought so hard against establishing this royal commission. Their vicious attacks against John Hatton should be remembered by us all. The attitude of John Fahey, the Liberals and the Nationals seemed to be that it was easier to "shoot the messenger". A reading of Hansard leaves us in no doubt what they thought about establishing a royal commission.

If not for the conviction and courage of Mr John Hatton, who was the Independent member for South Coast at the time there would be no royal commission, and the filth that we have all seen exposed of late would have stayed hidden.

Indeed, when this was argued in State Parliament, the public gallery was packed with members of the police force, which could have served to intimidate voting members of parliament~

John Hatton had the great courage to listen to the whistleblowers and do something about it. This action of humanity of Mr Hatton leaves me feeling humbled, as if something very good has just brushed over us.

We can use this chance or we can get lazy again and let the mongrels resume their rotten business. It all depends on how much we care, and how much is just shallow lip service, for propriety.

THERESE MACKAY
Port Macquarie

Your documents

Corroborating/cross checking allegations & submissions to governments, commissions of inquiry, other authorities

It is common for persons in an actual or potential whistleblowing situation to have papers or documents that either prove or tend to prove the truth of their allegations of impropriety or breaches of the law. It is also common for people to provide documents to authorities and not keep copies and not keep good diary notes and other records of their dealings, conversations and interviews with those authorities. It is best to provide only photocopies to such authorities. If originals must be provided, then you should keep at least two copies one in your possession in a safe place and another in the possession of a trusted third person. It is best not to tell anyone who this third person is.

It is very important to keep good notes and diary records of events. Records and copies of any interviews attended should also be kept. The above applies to media and journal-

ists as well.

Experience has shown in the past that people 'lose' things or else simply forget them. In the worst case coercive authorities such as royal commissions, the New South Wales Crimes Commission and others in the past have subpoenaed all the documents of a person supposedly so as not to prejudice an investigation or to 'assist' it. In reality such measures are often taken in an effort to stop information being provided to the media or simply to suppress it.

One way round the problem, apart from hiding material is to put the material in the possession of a court by way of evidence, if court proceedings are current or to provide such material to a willing MP on a confidential basis who is willing to invoke parliamentary privilege and also hopefully ask a few embarrassing and

privileged questions in the Parliament.

Possible preservation of anonymity and documents

It is worthwhile noting that often a whistleblower can give themselves the ultimate protection by remaining anonymous and simply photocopying documents as part of their normal office procedure (if you do not have such a normal procedure in your office – introduce one, even just for your own job) and sending copies of those copies (to ensure you are not open to charges of theft) to the media and proper authorities on an anonymous basis. Care should be taken to tell no one about this and to ensure that the information is not of such a character or quality that it ensures that you may be identified. □

Medical and psychiatric assessments, examinations and reports

Often employees who find themselves in a potential or actual whistleblower situation will be asked/required to undergo a medical and psychiatric examination and report.

At recent WBA meetings a medical assessment panel set up under the auspices of the NSW Department of Health has reared its head and it seems that extensive use is made of this 'service' by the NSW Education Department.

The charitable would say that employers often arrange for such examinations as part of an effort to show they care and ensure that such employees receive adequate assistance in a very stressful situation and/or perhaps ensure that employees receive adequate financial and other compensation for damage suffered as a result of inevitable stress. The less charitable would say that such examinations and reports are arranged by employers in an effort to dent the credibility of a person making allegations of impropriety or else simply to get rid of them, or both!

Inevitably an employee who refuses such examinations will be open to allegations of fraud: –"what

have you got to hide?" Therefore one has to very carefully assess the advantages and disadvantages of agreeing to such assessments.

One option is to agree to it provided you have a say about who the specialists are and that they are not associated with the employer in any way and are independent. The other option is to agree to such examinations and reports but insist on full access to all correspondence, notes reports made about you and also a second parallel examination by a specialist or specialist of your choosing (but preferably not at your expense).

Remember though that you always have the right to refuse medical or psychiatric examination.

Appropriate legal and medical advice should be sought before agreeing to any examinations and reports of the type described above. It is often useful to seek medical advice on the appropriateness of otherwise of examinations and reports from an experienced medical general practitioner, preferably your own. On occasion WBA members may have contacts who can assist you in this regard. □

Funding for WBA and its members

A never ending flow of suggestions is desperately needed.

One idea that has surfaced is for members in appropriate cases to write and date detail or draw up a chronology of their experience(s), information and allegation(s), and market or sell them to the media and others who may be prepared to pay for such material. WBA could assist with the process via contacts members may have and in return WBA would keep a percentage of any payments made.

Such a scheme would need to be carefully planned and dealt with sensitively. □

CONTRIBUTIONS PLEASE

Articles, letters, cartoons or illustrations dealing with any aspect of whistleblowing will be welcomed.

Address material to:

The Editor, c/- PO Box M44, Marrickville South, NSW 2204.

Please submit written material on computer disk or typewritten and double-spaced. Deadline is the 10th of the month for publication in the following month's *Whistle*.

The right of freedom of speech and defamation exposure

(The following observations should be regarded as comment rather than authoritative legal opinion.)

Anyone who wants to publish sensitive information and who is worried about being exposed to defamation action or being gagged should bear in mind the following.

The High Court of Australia has confirmed an implied right of freedom of speech in all political matters associated with Parliament and political matters (and probably State Parliament matters as well) in the cases of *Nationwide News & Australian Capital Television* (1992) High Court of Australia and *Theophanous and the Herald Weekly Times* October 12 1994 in the High Court of Australia. Clearly every effort should be made by a person who alleges impropriety and corruption to make such matters 'political' and preferably at Federal level as well as State level. Such a constitutional right most probably prevails over any State laws or directives from state bodies such as royal commissions and in NSW, the NSW Crimes Commission and the ICAC, as well as restricting the scope of defamation law itself. It is quite likely that similar directives from Federal bodies such as the NCA may not be effective either.

Before taking advantage of this it would be advisable to seek detailed legal advice in respect of particular situations. It is also worth bearing in mind that State and Federal authori-

ties have a great deal of difficulty withstanding claims of parliamentary privilege at either State or Federal level. So, if a person is overly concerned about defamation action from other persons or other legal action, civil and criminal, from investigative authorities, then securing the cooperation of a willing State or Federal MP is the solution to the problem as they have parliamentary privilege. Often, Opposition MPs are more willing to vigorously invoke parliamentary privilege than others. It is often said that members of smaller parties and independents can be more cooperative in this regard.

So far as defamation or other legal action is concerned, it is always worthwhile bearing in mind that if someone takes legal action against you it is going to be expensive for them even if you are unrepresented and it can also draw twice as much public attention to a particular problem than would otherwise have been the case.

The best example is the McDonalds fiasco litigation currently going on in England. Therefore it cannot always be assumed that legal action will be taken against you if you publish material about alleged impropriety or corruption etc. However it is always best, if you are able, to seek detailed legal advice about particular situations. □

Trade unions, employee/professional associations and public interest whistleblowing

Experience of many people has been that unions and professional associations are of very little assistance in the past. If your union or association is not much help, remember it is a supposedly democratic organisation there to service its members. For this reason alone it is always worthwhile to belong. You may be able to change the attitude of an unresponsive union by finding out when branch, general and/or committee meetings take place and raising matters directly at such meetings. Alternatively at ordinary meetings you can move resolutions or motions yourself to draw attention to the problem and you can

even move a motion of no confidence in the committee of an unresponsive union or professional association. Sometimes it can be more effective to persuade an officer or a job delegate of a union or professional association to take up your cause even on a confidential basis before you invoke democratic procedures inside your union or association.

Apart from the above it is obvious that representations need to be made by all concerned to unions and professional associations at local, branch, State and national level (including the ACTU) so that there is more awareness. □

A story of love and power and the intense double edged power of love

A BADGE BLUE AND BATTERED

*A battered blue badge charred
corpse of a card
Lie mute on a ledge in Davey
Jones' yard
Few know such history with no
one to see*

*None know his story that's no
one and me
It started in earnest he marched
out in glee
He faced the big tests then
passed all three
Bash bribe and beaver a word
for the wise
Don't catch that fever is your
way to survive*

*He wanted the thrill was on for
the ride
Showed them his skill from him
thieves must hide
To run with the pack was never
his way
He dealt a straight deck worked
play by play*

*The grubs at their game looked
up in dismay
We can't make him tame he
won't go astray
The lesson to preach the plan
for the fray
Stand up to teach and you will
go away*

*He stood up to speak revealed
to us true
Our rape of the meek with bul-
lies in blue
What wealth did he seek for
telling the tale
Simply clean up the filth make
the job hale*

*I sit back to look this body now
bent
Heart on a hook mind twisted
and rent
First rebuild the mind so the
body may follow
No chance to unwind with heart
still and hollow*

*The best of their best lie now on
offer
Few pass that test while roll-
overs still proffer
Do not listen to jargon just hon-
our this story
Display the blue dragon in all
it's vain glory*

ROBERT BENNIE

The National Crime Authority

The NCA has the coercive powers of a royal commission under Federal laws very similar to those currently possessed by the NSW Police Royal Commission (PRC). The AFP has none of these powers and its brief is to investigate and prosecute crime involving the breach of Federal legislation (such as the Commonwealth Crimes Act) and to perform a community policing role on the same basis as State and Territory Police Forces in the ACT, Jervis Bay, Norfolk Island and the Cocos Islands.

One of the inherent weaknesses of the present rudimentary complaints system that relates to the NCA and its officers is the fact that in effect the Chairman of the NCA itself currently decides whether or not a formal complaint is to be investigated. It has to be understood that a good proportion of NCA officers are in fact officers of the AFP and existing State and Territory police forces who have been seconded to work with the NCA usually for a fixed period of time. There is a memorandum of understanding with most State and Territory police forces and the AFP whereby if the Chairman deems it to be appropriate then complaints are referred to the various internal

affairs/complaints authorities of the applicable police force from which an NCA officer originates. This complaints process as well as being most likely slow and bureaucratic of course has the actual if not perceived defect of the Authority itself being required at first instance to determine the efficacy of a complaint against itself.

Clearly in the exemplary case of Mehmet Skrijel in Victoria the above process failed miserably which is why the former Minister for Justice Duncan Kerr commissioned a report into the matter by David Quick QC who in effect recommended a Royal Commission should investigate Mr Skrijel's complaints against the NCA which of course are of a very serious nature. Incredibly the ALRC report appears to make no reference to the Skrijel case at all.

Given the failings that have occurred with respect to this case alone it is more than arguable that the NCA should be overseen by an independent complaints authority with adequate investigatory resources similar to that recommended for the NSW Police Service by the recent Interim Report of the NSW Police Royal Commission in February 1996. □

The Australian Federal Police Independent complaints authority needed

A separate section of the Issues paper relates to the Australian Federal Police. The revelations of corruption that have affected the now defunct Joint Federal State Drug Task Force as it relates to serving AFP officers as revealed at the NSW Police Royal Commission are disturbing to say the least. Clearly there is a need for an independent complaints authority for the AFP as well given the obvious failure of the AFP to detect this sort of police misconduct.

Apart from the above observations, the ALRC Issues Paper can be viewed as a useful summary of the some of the issues involved relating to the NCA while being a bit short on exemplary case studies relating to it.

Copies of the ALRC Issues Paper can be obtained from:

The Australian Law Reform Commission
Level 10/133 Castlereagh Street
Sydney
NSW 2000

Phone 02 284 6333; fax 02 284 6363.

The ALRC invites submissions. □

Gaping holes in whistleblower protection legislation

Financial assistance – what Federal and State governments could do to improve the situation

The two most common handicaps faced by whistleblowers are lack of money and lack of legal representation.

It may be no accident that no government in Australia has done anything to rectify this situation. Quite obviously people who find themselves in this situation not only need money to live on, they often have lost their employment and also require financial assistance for adequate legal representation.

Legal representation is often required to:

- secure their employment position or secure compensation via industrial tribunals, workers compensation and the courts;
- to ensure that false allegations made against them to dent their credibility are dealt with by appropriate legal action including civil and criminal defamation action;
- to ensure their physical and general protection through articulate, vigorous and persistent applications for anti violence or domestic violence orders in the magistrates courts and via available State and federal witness protection schemes, applications for preservation of anonymity to authorities and

official inquiries and in NSW via applicable whistleblower protection legislation; and

- for adequate legal representation at official Inquiries such as royal commissions, ICAC, NCA, etc.

It is worthwhile noting that such legal representation if provided would in many cases considerably assist official inquiries and government as often a person in an actual or potential whistleblower situation has difficulty putting together their submissions or properly ordering their information.

Other assistance that could be provided includes counselling and appropriate support to find new employment if this is required as well as streamlined social security support.

It is most urgent that all concerned make appropriate representations to State and federal governments, members of parliament, trade unions and other sympathetic organisations with a view to having legislation enacted to provide funds for the above. □

The continuing aftermath of the NSW Royal Commission into the Building Industry

The Report of this Royal Commission (RCBI) extensively detailed a number of instances of fraud and malpractice in the NSW building industry including the practice of fraudulent collusive tendering amongst contractors and the misapplication of State and Federal government funds for a scheme supposedly to assist apprentices and the young unemployed in the building industry by a prominent employer industry organisation.

The above matters were all exposed by a number of whistleblowers in the building industry who were either employed by the industry body in question or various contractors. The fraudulent collusive tendering effectively involved tenderers for certain building projects secretly getting together and agreeing on secret add-ons for their prices, paying so called special fees to participating trade industry associations and agreeing secretly to have the successful tenderer pay all the losing tenderers an "unsuccessful tender fee" which was added on to the tender prices

given to the unsuspecting proprietors who more often than not were either State or Federal government.

It may be significant that a number of key players and individuals in the above matters have now either been 'rehabilitated' or were never the subject of any official scrutiny, investigation, legal proceedings or professional disciplinary action. They include a former NSW Government minister, solicitors, graded arbitrators and current senior officeholders in building trade industry employer associations. Where misconduct by government officials was involved the Independent Commission Against Corruption apparently never followed up with further investigations despite numerous complaints having been made.

At page 161, Volume 2 of the RCBI Report, Kevin Holland QC, Assistant Royal Commissioner States (when referring to collusive tendering practices): "The evidence abounds with grounds for concluding

that the agreements were made with dishonest intent".

In order not to expose *The Whistle* or anyone else to any potential legal action the remainder of this article consists of direct quotations from official documents such as the report of the Royal Commission into the Building Industry (RCBI) 1992.

At Page 122, Volume 3 of the RCBI Report it is stated:

"Some time prior to October 22 Jubelin received from the Minister (presumably the Minister for Housing) a copy of documents he described as stolen from the MBA, making allegations of favourable treatment for relatives of various prominent people including Jubelin and Mr Fahey, the Minister for Industrial Relations, in connection with the MBA Apprenticeship Scheme. One of them included the following:

(b) M stated that in one recent year a surplus of approximately \$300,000 had been shown in the accounts for the Apprenticeship scheme but →

TRANSPARENCY INTERNATIONAL AUSTRALIA

The coalition against corruption in international business transactions

"ISSUES FOR BUSINESS" SEMINAR SERIES

THE LEGALITY OF FOREIGN BRIBES UNDER AUSTRALIAN LAW

Speaker:

Peter Butler, Partner, Freehill Hollingdale & Page

Commentators:

David Chaikin, Barrister

Debbie Shon, Allen Allen & Hemsley

with a brief introduction to Transparency International by Peter Rooke, Chief Executive, TI-Australia

Current moves in the OECD and elsewhere are likely to increase pressure for changes to Australian criminal and tax law relating to foreign bribes and related administrative procedures. In the first of a series of seminars on specific issues, leading corporate lawyer Peter Butler will present an authoritative paper he has written for TI-Australia outlining the current state and federal law. Barrister David Chaikin who advises foreign governments on issues relating to international corruption will lead discussion on how Australia should respond. Debbie Shon, a former Assistant US Trade Representative, will comment about the US Foreign Corrupt Practices Act.

5.30 - 7.00 p.m.

Tuesday 30 April 1996

at

Allen Allen & Hemsley

Level 23

Chifley Tower

Chifley Square

Sydney 2000

RSVP tel/fax 9969 6854

\$10 light refreshments

(Seminar co-sponsored by THE LAW COUNCIL OF AUSTRALIA, International Law Section, International Trade and Business Committee.)

The anti-whistleblower culture

BY EVAN WHITTON

(An analysis concerning the NSW Police Royal Commission which appeared in the Sun Herald newspaper on 2 January 1996.)

"It was apparently suspected 10 years ago that Detective Sgt Wayne Eade, the Gosford based star of an X rated video shown before Christmas was hugely corrupt...Eade was investigated several times by Internal Affairs without result before being unmasked by Justice James Wood's chief investigator, Nigel Hadgkiss. The fundamental problem in the service seems to have been that some senior police do not understand that the culture of not dobbing in colleagues offers the corrupt an open slather.

"Senior Constable Deborah Lee Locke resigned from the service a week before Commissioner Tony Lauer said he would make a graceful

exit. John Hatton told Parliament last year that Locke said Lauer told her in 1989 "Police don't like...police who dob in other police" after she informed Internal Security that a Parramatta detective was associated with Louis Bayeh, Roger Rogerson, Billy Bayeh and Len McPherson.

"Hadgkiss, went on the record in 1990 when he was the National Crime Authority's chief investigator in South Australia. He told the *Adelaide Advertiser* (13/9/90) 'Corruption in whatever form will not be tolerated. Whistleblowing should be an accepted part of that culture and it should not be seen as dobbing in one's mates. Whistleblowing is to be commended.'" □

(Continued from page 9)

the next year it had 'disappeared'. A clear implication was made to the effect that the funds had been diverted from the Apprenticeship Scheme to the general funds of the MBA..."

It would appear that ICAC has never followed up the rather brief investigation of the circumstances as to how and why NSW Government funds were granted in the first place. It should be borne in mind that the RCBI only had a brief period of time and limited resources to examine the matter in late 1991. □

HELP!!!

Anyone who can help produce
The Whistle - for instance by
typing up material, photocopying or
helping to fold and address copies -
please contact Lesley Pinson on:
02 365 1723.

CASE STUDIES

A whistleblower at the University of Western Australia: Dr David Rindos

Dr David Rindos a Cornell University graduate was an academic of considerable standing in the Archaeology Department of the University. He was initially head hunted by the Head of the Department Professor Sandra Bowdler. Unfortunately for Dr Rindos, while acting as head of the Department he was the recipient of a series of serious complaints from students regarding academic and personal victimisation. After numerous attempts to satisfactorily resolve the matter failed, Dr Rindos found himself a whistleblower to a campus review committee.

The upshot of the controversy was his effective sacking by the University Vice Chancellor, Professor Fay Gale despite the fact that 30 internationally renowned archaeologists and anthropologists wrote to her in support of Dr Rindos receiving tenure or permanent employment at the University.

This is not the first case that WBA has become aware of where an academic is effectively victimised by the denial of permanent tenure or employment in the university system. The threat to academic independence and integrity generally is obvious

given that most newly recruited academics in universities do not receive permanent employment tenure straight away and are employed either on a temporary or fixed term contract basis.

It is important to realise that most of the following details could not be published were it not for the fact that the allegations have been previously aired in the West Australian Parliament by Mr Mark Nevill MLC a member of the State's upper house. Mr Nevill tabled 329 university and other documents connected with the case in the Parliament.

Mr Nevill quoted from a long list of incriminating UWA documents which were tabled. One was from a female student who wrote that Professor Bowdler made sexual passes at her. "Being immature and flattered, I became involved in a sexual relationship with her...within a month I realised the predicament I had placed myself in but feared that if I left her, she would somehow destroy my career...I believe that over the past three years she has attempted to do this...In 1986 I was forced to leave my family and the University in order to get away from Professor

Bowdler..."

Mr Nevill made a 90 minute speech to parliament concerning the case and criticised Professor Gale's handling of the affair and her decision to remove Dr Rindos. He alleged that Gale had protected the Head of the Archaeology Department, Professor Bowdler, who had been accused of sexually preying on young female students.

The particularities of the above case are unusual in many respects. The case raises the wider issue of academics having any form of sexual or intimate relationship with students in general. It is arguably impossible to prevent adults from having intimate relationships, however it may be all the more arguable that clear codes of conduct should at the very least prevent an academic having any academic role or say in a student's study and career if they are in the process of having or have had an intimate personal relationship with a student in their department or faculty in a university. □

Material quoted from the Sunday Times (WA), February 18 1996; Hansard of the West Australian Parliament; and Mr Mark Nevill MLC.

Musings from the MCA*

The following material (supplied by Andrew Allan, Medical Consumers' Association Secretary) is extracted from letters to the Council of Retired Union Members Associations, CRUMA. Mr Allan tells us that he understands that based on some of this material a meeting of CRUMA voted on a motion to the NSW Labor Council warning them of the use of commissions because these had the effect of removing Departmental accountability to the electorate via a Government Minister.

It has been said that a utopian government would provide a relationship that was akin to that expected with a responsible insurance company. One pays a premium and when one has cause to claim on the policy a measure of assistance is available in accordance with a contract. The reality is that government acts in the manner of a very bad insurance company. One that has

immense power to seize premiums (via a Tax Office), uses no written contract, and has no obligation to 'pay out' when one seeks justice. Plus Australian Law today is only for the rich or very poor, the vast majority of persons being only harmed by any contact with the legal system.

The ALP seems particularly prone to be seen in a bad light by electors at the moment because of a focus on "the big picture" and attempted equity aimed at group level. Some ALP MPs thus in practical transactions can put the value of the individual at zero compared to "the public interest". However it is fair to say that such a zero value view of the person in the street is often seen as bipartisan policy today leading the person in the street to increasingly fail to differentiate between the major parties. For example funding involved in the *Justice for All* statement last year

made by federal government when compared to the public need showed the statement to be quite fraudulently named. Truth in government is perceived as unknown territory.

On day to day matters that are of vital importance to the person the street an MP's first loyalty is not to his/her electors but to 'the party' and thus electors seeking access to justice via their MPs often (very often) become totally disillusioned. The choice of defining the MP as just a figurehead and ornament, who has virtually no legal or practical responsibility towards persons in the electorate as all real responsibility is increasingly passed over to public servants, has led to such matters as the media finding in a public poll that electors place their MPs on a par with drug dealers in terms of moral standing and social value.

(Continued on page 13)

New South Wales News

Activities and administration

Attendances have been down a bit at the monthly Branch meetings, but quite good at the Sharing and Caring Meetings, with three new people at the one on 2nd April.

The Branch meeting on 7th April decided it would be a good idea to recommence having speakers occasionally even if it did make the day rather long. Not only may we get good information, but the speaker might also act as a conduit through whom we can feed our concerns back into his/her sphere of influence.

Another review of the Queensland Police Service

The Queensland Government has appointed an independent committee to undertake a broad reaching review of the Queensland police. The committee will report to the Queensland Minister for Police. Sir Max Bingham is the Chairman of the Independent Review Committee.

The deadline for submissions is 24 April 1996 and submissions should be forwarded to: The Executive Director, Queensland Police Service Review, PO Box 60, Roma St, Brisbane, Qld 4003. Enquiries to the Executive Director, phone 07 3247 9250/3247 9249. □

The 7th April meeting was preceded by a sausage sizzle provided by President Jim Regan, and this will be a regular event (be there 12.30!). The social outings at Sizzlers Mosman are now discontinued, but the ones at Rosehill in even months will continue.

Member Collinridge Rivett of Penrith, a WB from the war years and artist/cartoonist (see picture page 7 January) is having a celebration on Sunday 12th May to mark the 50th anniversary of his return to Australia. Phone 047 21 3695 or 02 639 4156.

Our dispute with ICAC

There have been letters between Branch President Jim Regan (assisted by Cynthia Kardell, Alex Tees et al) and current Commissioner Barry O'Keefe both directly and via the Telegraph-Mirror newspaper. Mr O'Keefe keeps drawing on the results of a survey of opinions of the general public showing reasonable satisfaction with ICAC. Our own recent survey shows much disappointment among WBs who have referred complaints to the Commission, including cases where the plight of the WB even became worse afterwards.

Shopkeepers checking up on the quality of their shop assistants sometimes give questionnaires to customers. It does tend to give more reli-

able results than giving them to people who have never been in the shop! WBA would like to encourage Mr O'Keefe to adopt the same strategy. The names and addresses he needs are (presumably) all in there, on files.

Police and DOCS

It does seem likely that Jean Lennane's research project comparing the subsequent career paths of WBs and whistleblowers will go ahead with help from the NSW Police Service, who have signalled they will provide necessary staff to extract the required statistics.

The Royal Commission has moved on to revelations by people who have been victims of paedophiles where police have apparently protected the offenders. This has begun to tie in with the disastrous situation in the under-resourced and badly administered Department of Community Services, which has been unable to protect many children from various forms of abuse for some years, and where many WBs have, according to advice we have received, been severely victimised or driven out.

Calls are beginning to be made via the media for a Royal Commission into DOCS, and WBA is about to officially add its voice to these. □

News from the Australian Securities Commission and an update on the New South Wales Police

FROM JEAN LENNANE

The ASC has been advertising recently, to encourage the public to contact them. One ad for example says: "If you know anything about a shonky company, we're all ears." (with a picture of a beagle, ear extended.) WBs may have noticed the activities of the ASC, and its laconic chairman, Professor Fels - the only watchdog in Australia that has runs on the board in terms of getting convictions in the courts, and very severe financial penalties for companies that break the law. Because of the ads, we contacted the ASC, as it seemed they could be interested in and helpful to whistleblowers in the private sector. They confirmed that they would like to hear from WBs involved with companies that appear to be breaching corporate law e.g. where there is fraud occurring substantial enough to affect the interests of shareholders.

If you are in the private sector, and think you have evidence of a contravention of the Corporations Law, you should contact your ASC Regional Office:

ACT [ph] 06 250 3800 [fax] 06 250 3811

NSW [ph] 02 9911 2200 [fax] 02 9911 2333

Qld [ph] 07 3867 4700 [fax] 07 3867 4725

SA [ph] 08 902 8400 [fax] 08 202 8410

Tas [ph] 002 35 6800 [fax] 002 35 6811

Vic [ph] 03 9280 3200 [fax] 03 35 6811

WA [ph] 09 961 4000 [fax] 09 261 4010

The receptionist will be able to put you in touch with the most appropriate person depending on the nature of your complaint. We normally advise members not to expect any help from official watchdogs but given the ASC's outstanding record to date it's well worth trying. Please give us some feedback on how you go with them.

As the Royal Commission rolls on now into pedophilia and even more shocking revelations police ser-

vice attitudes seem to be undergoing some genuine change. There are a number of encouraging signs - two police WBs have recently settled actions before the Anti Discrimination Board/Equal Opportunities Tribunal. Ken Jurotte's was settled first but only after a week in court (the case was expected to take 9-a weeks); Debbie Locke's was settled out of court soon after. Neither is able to say anything about the settlement but don't seem unhappy about the result. It is good to see the Service backing away from its previous policy of fighting WBs to the grave. - the Police Association which in past years has tended to be part of the problem rather than the solution is

A WIN FOR WHISTLEBLOWERS

WBA congratulates
Debbie Locke and
Ken Jurotte
on having their cases
settled.

being very supportive of police WBs and recently sent a representative to the policing seminar run by the Victorian branch of WBA in Melbourne. Victorian WBs were very impressed with his knowledge and attitude. David Landa, the ex-NSW Ombudsman, is doing consultancy work with them, and has been in touch with WBA. - the Internal Witness Support Unit has taken up our research proposal on comparing police WB career paths with controls and police on whom they blow the whis-

tle They have seconded a police analyst to the unit, and employed an outside research analyst to do the project. Work started in earnest after Easter. There appears to be very strong support for the project from the top, which in normal circumstances would be very surprising, but with the previous commissioner now gone, his successor intending to retire as soon as the permanent replacement is appointed, and continuing pressure from the Royal Commission, they seem to see it as a welcome opportunity to do something innovative and positive. - the second meeting of the Internal Witness Advisory Council was held on 13th February, after Commissioner Lauer's retirement (and indeed with only one of the four senior police present at the first meeting still around for the second). It was even more positive than the first meeting, possibly because of that. Members were presented with the policy documents for the running of the Internal Witness Support Unit, which WBA is happy with. They are a vast improvement on the previous ones. However the crunch will come when Acting Commissioner Neil Taylor looks into the matter of police WB Tony Katsoulas as requested by WBA reps at the meeting. Tony won his recent case for Workers Compensation (he has also won every other case against the Police Service) but they then decided to appeal. WBA pointed out that an appeal is entirely at their discretion, and persisting with it continues to give other police and the general public the message that whistleblowing can never be forgiven and will be pursued to the last cent of taxpayers money. We await the result of Mr Taylor's deliberations with interest and will of course have to review our continued presence on the Advisory Council if they decide to proceed. However positive words and policies may be it is actions that matter. We can't allow our presence to be used to give weight to words of support while victimization of whistleblowers goes on unchanged. □

STOP PRESS

REGISTER EARLY for the National Conference and save money!

Total conference fee for the two days is \$50 (waged) and \$20 (unwaged).

Register by 31 May and the cost is reduced to \$40 (waged) and \$15 (unwaged).

DON'T FORGET, membership fees are due by 30 June.

New members \$25. Renewals \$20. Subscriptions to The Whistle only, \$25 and \$12 (concession).

MCA has had to recommend that medical victims may care to consider seeking justice via media exposure, rather than via MPs. An MP may just refuse to help a victim at all unless forced into support by being on camera. However it must also be said that even if the victim's story is published and an MP makes a speech in parliament as well, the net effect can be zero and no redress or system change may be obtainable.

An increasing distance of the MP (the first face-to-face point of contact with government) from the public may well be linked to many acts of violence in the community. A common factor in the background to such lamentable events is perceived injustice plus a longstanding inability to obtain any assistance to right a perceived wrong. MCA in its submission to the PJC to the HCCC made the suggestion that MPs needed to be given more responsibility for righting wrongs and more resourcing so as to be able to discharge such responsibility.

Some NSW-Speak

Term Used Hidden actual meaning
Independent = Undemocratic, kept secret from both public and parliament.
Public interest = The interests of the powerful groups within society (i.e. what is not in the interests of their victims).
Legal judgement = Unscientific absolute claim based on a local religion called "The NSW Law".

Extracts from MCA submission to the PJC to the HCCC under oath and parliamentary privilege on 20.12.95

Complaints management theory

From the QAHCS data it would not be at all unreasonable to assume that major failures in the provision of services nationwide could give rise to at least 400,000 complaints per year. So that for NSW a figure of say around 150,000 complaints per year does not seem unreasonable. If one considers that in NSW of the order of 400 major service locations could be said to exist this translates to around one complaint per day from each site. But evidence from other industries¹ is that 96 per cent of people fail to complain when they have good reason to. This suggests an expectation for a figure of around 6000 complaints per year. If in NSW consumers are say half as ready to defend their rights² as United States citizens are, this gives around 3000 complaints per year as

an expected figure.

What MCA very strongly suspects is actually going on is that the all-pervasive medical industry culture (the well known walls of silence effect etc.) is at work and a complaints management system is converting complaints as follows.

1. Generally consumer complaints get converted into inquiries only.
2. Persistent medical consumers with complaints get classified as mad crazy people and rejected as vindictive etc. (or in Queensland end up being actually put in the 'nut-house' against their will to shut them up and prevent any compensation pay out - see MCA case study F21394).
3. People with some medical background or better education get a bit further but find only conciliation with expert 'walls of silence' operatives offered.
4. But if the complainant has poor English, or limited verbal and written skills they get stopped much earlier in the complaints management process.
5. In contrast if the medical industry wishes to take action then millions of dollars of tax-payers funds can be spent and patients records raided to try to 'get the goods' on a particular provider. No medical consumer complaints are even needed in such cases.

Notes

1. In the 1980s TARP, a research firm, carried out studies on customer behaviour for the Carter administration's Office of Consumer Affairs. The findings are summarised by Karl Albrecht and Ron Zemke in *Service America!* at pages 6-7 publisher Dow-Jones Irwin 1985.
2. Of course Australians do not technically have any clear rights to defend (see Hilary Charlesworth (1993), "The Australian Reluctance about Rights", *Osgoode Hall Law Journal* Vol. 31, No. 1, pps 197-232).

Consumer Communication: The writing's on the wall?

Freedom of speech norms appear to go something like this:

USA: Under the Constitution I claim a right to speak

UK: We don't have a constitution and I don't agree with what you are saying but I will defend your right to say it.

NSW: I don't agree with what you say and I will use all powers available under the Constitution and the NSW civil law of defamation to stop you saying it. □

* *Medical Consumers Association of NSW*, PO Box 230, Balgowlah NSW 2093.

WBA contacts and meeting details

Australian Capital Territory

- Michael Gauci 06 258 1464 or Shane Carroll 06 231 2498.

New South Wales

Sydney

- General meetings are held on the first Sunday of each month beginning at 1.30 p.m., preceded by eats (e.g. sausage sizzle) at 12.30 p.m., and followed by coffee and bikkies etc.
- Sharing and Caring meetings are held every Tuesday beginning at 7.00 p.m.
- Meetings are held at the Presbyterian Church Hall, Campbell St, Balmain.
- Social Outings take place on the third Sunday of each even month at 12.30 p.m. at Sizzlers, James Ruse Drive, Rosehill. Next: 16th June. Call one of the contacts to make sure someone is going. Call one of the contacts to make sure someone else is going.
- Secretary: Richard Blake, 02 559 1680. President: Jim Regan, 043 43 5028 (H), 016 288 920 (pager).
- NSW Committee e-mail address: 100254.1467@compuserve.com
- Phone 365 1723 or 281 9743.

Wollongong

- Brian Martin: 042 213 763.

Goulburn

- Rob Cumming: 018 483 155.

Northern Territory

- Phillip Nitschke 089 322 500.

Queensland

- General meetings are held on the second Tuesday of each month at St Paul's Anglican Church Hall, 554 Vulture St, East Brisbane, beginning at 7.30 p.m.
- Col Dillon 07 3353 1040.

South Australia

- Jack King 08 278 7853.

Tasmania

- Isla McGregor 002 391 652.

Victoria

- General meetings are held every fortnight on Sundays at the Unitarian Church, 101 Grey St, East Melbourne, beginning at 2.00 p.m.
- Kim Sawyer 03 9344 8061 or Keith Potter 03 9570 2371.

Western Australia

- Contact Ian Vigar 09 964 3419. □

WHISTLEBLOWERS AUSTRALIA INC
PO BOX M44, MARRICKVILLE SOUTH
NSW 2204



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☐ **BY BECOMING A MEMBER:**

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OR

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