

"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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NEWSLETTER OF WHISTLEBLOWERS AUSTRALIA INC

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All expressions of opinion are published on the basis that they are not to be regarded as expressing the official opinion of Whistleblowers Australia Inc. unless expressly stated.

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*.

FROM THE NATIONAL PRESIDENT

At the February 4 meeting of the NSW branch of Whistleblowers, there was a tribute to Jean Lennane for her impressive work as national president, with well-deserved applause all around. Under Jean's presidency, Whistleblowers Australia has made great strides, contributing greatly to giving whistleblowing a much higher profile around the country. Thankfully Jean is remaining on the national committee as a vice president. One reason I undertook the position of president is knowing that I can rely on the experience, talent and dedication of the other members of the national committee. I have learned an enormous amount after only a few weeks in the job.

Unfortunately, even the best efforts of a national committee cannot begin to deal with all the cases of corruption, abuse of power, bureaucratic machinations, legal intricacies and amazingly complicated stories that come to our attention. To be frank, we are overwhelmed with material. Even a full-time staff of hundreds would be hard-pressed to deal with whistleblower cases from around the country. Accordingly, members of the national committee agree that as a rule we do not take up individual cases. Our aim is to help whistleblowers help themselves, by providing information, encouraging the formation of groups and net-

works, and by promoting campaigns seeking to make dissent less dangerous. We have drafted up an introduction to Whistleblowers Australia (included with this issue) that spells out this orientation. We do care about each and every individual case. But to be most effective, we need to use our limited resources wisely.

Over the next few months I'll be travelling around Australia and I hope to talk to as many whistleblowers and supporters as possible. I'll be in Perth (11-16 March), Adelaide (18-23 March), Hobart (30 March-4 April), Canberra (April or June, dates to be determined), Melbourne (about 27 June-3 July) and Brisbane (about 6-13 July). Let me know if you'd like to get together, and send documents to me beforehand if you want to discuss a particular case.

I'm especially interested in talking to people about strategy. That means being clear about goals, analysing the present situation (including one's resources, allies and opponents) and then working out the best methods of moving towards one's goals. Developing a strategy doesn't guarantee success but it can improve the odds. Individuals can develop strategies to pursue their own cases. Whistleblowers Australia

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as an organisation also needs to develop strategies. That is likely to mean giving less attention to the latest crisis and more attention to long-term campaigns and building support from new constituencies. Part of the challenge is to involve lots of members in the process of formulating strategies. It's not so easy when we're spread around the country, each with our own preoccupations. But it's a worthwhile goal. □

Bowman after early hearing

From *The Daily Telegraph* 30/1/96

Philip Bowman, the man who spilled the beans on Coles Myer's Yannon deal, yesterday asked Victoria's Supreme Court for an early hearing of his dispute with the retailing giant because the conflict was hampering his job prospects. In documents filed with the court yesterday, Mr Bowman also suggested a speedy trial was in the public interest because of the Australian Securities Commission's current investigation into the 1990 Yannon deal which cost Coles Myer shareholders \$18 million.

Through his solicitor, Geoffrey Gibson, whose firm, Blake Dawson Waldron is also being sued by Coles, Mr Bowman yesterday said the dispute was making it harder for him to seek "comparable employment".

"Mr Bowman instructs me that he is still a director of a substantial public company in the United Kingdom (BSkyB) but that it remains difficult for him to seek another appropriate position, particularly in Australia, until the allegations against him are disposed of," Mr Gibson said.

The request for an expected hearing, which would most likely combine Mr Bowman's \$2.16 million wrongful dismissal action against the company with Coles Myer's false and misleading conduct action against him, is the latest barb in the dispute.

Coles Myer exhausted every legal avenue in its bid to strike out Mr Bowman's statement of claim late last year when the Full Bench of the Supreme Court refused its application.

The parties were close to settlement before Christmas but negotiations became stuck on the issue of settlement amount and whether Coles Myer would apologise. Mr Bowman, Coles' former finance chief, claims he was sacked for probing the Yannon deal. □

No answers for Mr Hart

From *Medi-Tation* - newsletter of the Medical Consumers Association of NSW.

The 1980 Hart case was the start of a partial unveiling of the very grubby face of health administration in NSW, via the "Chelmsford Hospital/deep sleep therapy" Royal Commission. None of those responsible have ever been brought to account. It looks as if Mr Hart is not to be forgiven for uncovering perjury, conspiracy and official incompetence which lead to scores of deaths.

Judgment delayed

Following the Supreme Court appeal action in late August 1994 Mr Hart has now been told by his solicitors that judgment on whether he will be allowed a new trial, will not be made this year. Apparently solicitors for the doctors felt that it could be over a year before any judgment. NSW Attorney General (The Hon. Jeffrey Shaw) personally advised Mr Hart to apply as a person of limited means to get the appeal transcripts supplied free so Mr Hart filled up the forms and has been told that he can get the last two days transcripts only. Mr Hart has also failed to get copies of what written evidence was put forward on his behalf for the three judges to consider. It appeared in court to MCA that virtually all the vital evidence to support his case was either ruled out as inadmissible, or had not been submitted by his legal representatives in time prior to the appeal date. So the court was not allowed to address the key aspects of the appeal Mr Hart had actually wished to bring...thus medical reports proving the plastic surgery failed, recent medical records that show lasting damage Mr Hart suffered as a result of his 'treatment' in Chelmsford and the Royal Commission evidence of perjury in the 1980 trial seems all to have been excluded. But Mr Hart is unable to actually find out what happened in his own appeal. If this is how justice is conducted then the NSW courts appear to be fully Banana Republic territory.

MCA mischievous

MCA's letters to politicians have yielded one result. The Honorable Duncan Kerr Federal Minister for

Justice in reply said we were being mischievous.

We had suggested that money not justice was what the system was now about and pointed out to Mr Kerr that he had grossly misrepresented Mr Hart's situation on Channel 7's program "The Times". In this interview Mr Kerr said that Mr Hart had received around \$100,000 from Legal Aid. We wrote explaining to Mr Kerr that the true situation was that NSW Legal Aid had demanded total repayments of \$169,000 from Mr Hart after he had won \$60,000 plus \$12,000 interest in court, and so had chosen to ruin Mr Hart and by so doing to block action against the doctors, rather than to move to recover costs from the doctors as they could have.

Why are Legal Aid so intent on destroying Mr Hart? As a Royal Commission uncovered perjury and conspiracy to pervert the course of justice, since 1990 Legal Aid have had a path to recover \$100,000's of public money expended in 1980 but are clearly ready to forego this. So publicly appearing to be intent on protecting the guilty just as the DPP did by not pursuing criminal charges that the Royal Commission opened the way for. Perhaps in a Banana Republic one could anticipate a Minister for Justice seeing such events as being correct legal process? However it seems Mr Kerr does not see himself in such a role. Has he 'put his head in the sand' and reacted by seeking to 'shoot the messenger' rather than questioning the seriously faulty advice he must have received, from possibly the same shadowy official sources that have been influencing the course of the Hart case since 1980?

Unworthy victim

One can now only think that Mr Hart has been classified as an unworthy victim by NSW officialdom. Many must now feel that Mr Hart's case demonstrates how closely the model applicable to political dissidents in the USSR fits the situation of NSW medical victims facing government officials and the NSW legal system. These entities appear to be just as publicly unaccountable here as the KGB were in the USSR. □

Hatton now wants the feds checked

From The Sunday Telegraph 21/1/96

Former NSW Independent MP John Hatton yesterday called for a full inquiry into corruption in the Australian Federal Police.

Mr Hatton, a key figure behind the setting-up of the NSW police royal commission, rejected claims by AFP Commissioner Mick Palmer that the force was free of corruption.

He said Mr Palmer was adopting the same defence against royal commission evidence as NSW Police Commissioner Tony Lauer, who resigned last week.

Several AFP officers in the former Commonwealth-State joint drug task force allegedly stole drug money, paid bribes to leak information and

framed suspected criminals, according to royal commission evidence.

An AFP spokesman said last week that 17 former officers named in the royal commission, including 10 in the former joint task force, could face corruption charges after royal commissioner Justice James Wood brings down his report shortly.

The contracts of those still in the force had been terminated and they had left with only their pension contributions, the spokesman said.

"There have been no charges laid yet because we are awaiting the report of the commissioner before we act," he said. "All 17 could face charges".

The corruption evidence has thrown the AFP into turmoil, but Mr Palmer last week denied there was systematic corruption in the force.

He said that while no one could be certain that from time to time individuals would not be involved in malpractice, he had yet to see evidence of systematic corruption.

Mr Palmer conceded, however, that some of the evidence had been "disappointing and damaging".

But Mr Hatton said, "This is exactly the Lauer response. You cannot have 10 officers in a federal-State task force accused of corruption and treat it as an isolated case, especially as these people were hand-picked as part of an elite squad. The NSW royal commission found entrenched corruption in the task force. Some drug raids were awash with money. The money trees of illegal drugs, gambling and prostitution are growing just as strongly in the ACT as anywhere else. Why is it that despite the enormous publicity surrounding *Operation Seville*, where AFP and NSW police supervised the growing of millions of dollars of marijuana, that marijuana crops were still able to be grown in much the same locations in the ACT and nearby areas, as evidenced by court cases?"

"It is naive to assume that with the same temptations and a culture of cover-up that there are not serious problems within the ACT." □

Open secrets

Sydney Morning Herald editorial 29/1/96

During a radio discussion about a report damning the public service culture of secrecy, the Freedom of Information legislation was sometimes referred to as Freedom from Information legislation. The slip of the tongue was understandable – and justified. Both at the State and Federal level, politicians and bureaucrats have contrived to turn the FOI legislation on its head, with the result that the requirements of the legislation are frequently used to close off rather than open up access to the actions and decisions of the bureaucracy. A major – and welcome – recommendation, therefore, of the report, which was produced by the Australian Law Reform Commission and the Administrative Review Council, is the establishment of an independent Commissioner to ensure that the bureaucrats pay closer attention to the Federal *Freedom of Information Act*.

The report rejected the option of folding an independent FOI Commissioner into the office of the Commonwealth Ombudsman. The argument in favour of giving the responsibility for breaking the culture of secrecy to the Ombudsman is that this office has some functions already under the FOI legislation. The proposition was made, too, by Australia Post and the Aboriginal and Torres Strait Islander Commission, that another layer of bureaucracy should not be created.

This is clearly a self-serving argument. The depth of the new layer of bureaucracy supervising open government in Canberra would be directly related to the recalcitrance or helpfulness of bodies like Australia Post towards the FOI legislation. If the culture of secrecy and continuing obstruction to the principles and requirements of the FOI legislation did not exist, there would be no need for an FOI Commissioner. The government bodies therefore, can control how intrusive the role of the FOI Commissioner will be.

In the best of all worlds, of course, an FOI Commissioner should not be needed. But the culture of bureaucratic secrecy has – unfortunately – continued to flourish. The report noted that, after 14 years of the FOI legislation, too many public servants still had the view that they did not have to give information to the public. On too many occasions, as well, these public servants spend a great deal of time and energy trying to find ways of frustrating the FOI legislation.

There is a direct relationship between good government and open government. This is the point of the FOI legislation. The Labor Party and the Coalition would raise the level of the election campaign by committing themselves to an FOI Commissioner to enforce the FOI legislation. □

Telecom

In response to our appeal in last month's issue, member Sandra Wolfe has offered to coordinate a Telecom group. Write to PO Box 574, Buderim, Qld.

Human Rights Council of Australia Inc

BY LESLEY PINSON

The Human Rights Council of Australia is a private non-government organisation (NGO) which seeks adherence to the International Bill of Rights and other human rights instruments, internationally and within Australia. The Council seeks to promote understanding of and respect for human rights of all persons without discrimination.

On 9 September 1994, the Council submitted a report to the Government which contained a consolidation of "on the ground" views of various NGOs of Australia's compliance with its obligations under the International Covenant on Civil and Political Rights. The Council understands that the consolidated NGO report will be submitted to the International Human Rights Committee as an attachment to the Government's own report. However, the government has yet to finalise its own report which is now two years overdue. This raises grave concerns about the Government's seriousness, competence and commitment to honouring its Treaty obligations. In worldwide terms, however, many other countries have a much worse record than Australia and this raises serious concerns about worldwide commitment to human rights.

A number of individual WBs and members of the Network for Intellectual Dissent (IDiA) submitted viewpoints to the Council. Some of these have been mentioned in the report. Unfortunately many NGOs, WBA included, did not have the time or resources to prepare submissions. Even more unfortunately, although the culmination of the reporting process rests with the actual hearing of the report by the Human Rights Committee, and although NGOs are urged to attend these hearings, since these are held in Geneva or New York, attendance by representatives of NGOs is virtually impossible. The Council believes that this is inconsistent with the very spirit of the human rights instruments. The Council has urged the Committee to hold the hearings in Australia and has urged the Government to support this initiative. It will be interesting to see if this is strongly supported – Government representatives are unlikely to do themselves out of a taxpayer funded overseas trip!

The following extracts from the report might give many WBs ideas about further avenues of pursuit in their cases. Comments are included from WBs and members of IDiA

under the following articles of the ICCPR:

□ Article 2: Respect for all individuals and right not to be discriminated against on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status.

□ Article 6: Every human being has the inherent right to life. (WBs comment that this is breached as the lives of WBs are jeopardised by the "severe and prolonged stress caused by victimisation and harassment and loss of faith in the authority of the system" and "a number" of Australian WBs have committed suicide due to severe depression arising from the effects on their career, personal and family life.)

□ Article 7: No-one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no-one shall be subjected without his free consent to medical or scientific experiments. (WBs comment "WBs in their place of employment are typically subjected to prolonged mental torture and degrading treatment and punishment. They are demoted, humiliated, vilified and abused. They are frequently forced to see psychiatrists of the employer's choice. They may be forced to see as many as eight psychiatrists, until the employer obtains the desired adverse report".)

□ Article 14: All persons shall be equal before the courts and tribunals. Every one shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. If charged with a criminal offence – rights to be presumed innocent until proven guilty, rights to competent legal assistance (paid for if you can not afford it), rights to adequate time and facilities to prepare a defence, rights to examine and cross examine witnesses, etc. (WBs comment that some have been "framed" on criminal charges.)

□ Article 17: No-one shall be subjected to arbitrary or unlawful interference with his privacy, family, home, or correspondence, nor to unlawful attacks on his honour and reputation. Everyone has the right to protection of the law against such interference or attacks. (WBs comment "WBs routinely experience telephone tapping, interference with mail, threats by phone, letter, or in person, and physical attacks on themselves, family, home or pets are all common. Unlawful attacks on their honour and reputation within the workplace routinely occur, and depending on the political importance of the issue, attacks will also

occur in the media and under the protection of Parliament. The law provides no protection. Moreover, in many instances, police are themselves actively involved in unlawful interference.")

□ Article 18: Everyone shall have the right to freedom of thought, conscience and religion. (WBs comment that "the treatment of WBs is such – where the pressure is to participate in 'illegal or unethical behaviour' and the consequences for refusing to do so are 'tragic' – as to constitute a denial of freedom of conscience.")

□ Article 19: Everyone shall have the right to hold opinions without interference. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds. (WBs comment that State Public Service Act provisions restrict the rights of public servants to free speech. Also WBs are denied the right to "expose wrongdoing in the media, even when repeated attempts to get remedial action via the proper channels have failed.") Members of IDiA provided detailed information on the suppression of research or academic dissent, "managements of universities are operating increasingly for their own ends in climates dictated by financial and industrial concerns traditionally foreign to academic pursuit. While the procedures for disciplining and dismissing working academics are continually being tightened and streamlined, there is virtually no corresponding means for challenging incompetence and misconduct by management. To speak out against injustices, abuses, mismanagement or intrusions on academic rights and freedoms increasingly draws swift and unaccountable retaliation ...")

□ Article 24: Every child shall have, without any discriminations as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor...(WBs comment that a serious consequence of discrimination against WBs is discrimination against their children.)

□ Article 26: All persons are equal before the law and are entitled without any discrimination to equal protection of the law. (WBs comment "the legal process in most if not all cases is biased in favour of the authority, even when that authority is clearly doing wrong. The process has in some cases been blatantly subverted in order to prevent particular WBs from achieving justice. Police will not protect WBs in cases involving organised crime, and even at very high levels of the system have intervened to ensure that particular WBs are not treated equally. □

A whistleblower's lonely tune

BY ANDREW FISHER

From *The Bulletin*, December 26, 1996/January 2, 1996

Last year veterinary pathologist Dr David Obendorf was invited to join the scientific advisory board of the world's premier animal health organisation, the Office International des Epizooties, in Paris. But back home he was fighting to retain his job.

Two years before, he had told an Australian Society for Veterinary Pathology symposium of declining disease control services being provided to farmers. "I wasn't really saying anything that hadn't been alerted by a lot of other people," he says of his speech, which was among many detailing the breakdown in public veterinary services around the nation. "I was saying there was a valuable need for an impartial, objective public sector in animal health, and what governments were doing was hiving off work and being concerned about money generation rather than providing an extensive diagnostic service for livestock."

Obendorf had previously expressed his concerns to then primary industry minister Robin Gray about the effects of the cutbacks on Tasmania's \$750 million livestock industry. The message was already being heard in the rural community and among other veterinarians.

According to Australian Veterinary Association president Pam Seallon, her group is still concerned about the level of services being provided. "Governments are looking for cost-cutting, but these are core government functions which the public has a right to expect," she says.

The whistleblower found himself in trouble at his Launceston laboratory, where he was second in charge. With no support from managers, he claims to have been subjected to systematized discrimination which caused chaos within the office.

Crucial: "The place was in ferment," Obendorf says of the crucial departmental laboratory. "They said I was misrepresenting the facts, causing divisiveness, that my information was selective. It got to the stage of focusing in on people. People needed to polarise themselves and get into camps, there was a lot of insecurity and uncertainty about the future. It became more and more unsettling - morale was affected, there was absenteeism, people were getting

stress-related injuries. I was told I was a political troublemaker, and they didn't want me."

Obendorf was removed from his laboratory job with no explanation and sent to a Hobart policy position with few office facilities. Later, he was transferred back to Launceston and another office, with no phone, no computer, no filing cabinet, a chair with broken castors and a reading light with no globe. In the meantime, he was briefing the minister's office on problems of administration within the department which he claims Gray knew nothing about. During a talk over coffee, a member of Gray's staff dropped a bombshell - "He said managers had been in consultation with the minister and had told him my sexuality and private life explained my behaviour."

Obendorf freely admits his homosexuality and that his partner of seven years died of AIDS. "They said, referring to iDe, 'Dave has got AIDS as well and Dave is fatalistic, depressed and grieving and is vindictively disposed towards the department'." In the wider political environment, gay law reform was a major issue - and still simmers. Among the conservative farming community, this message was enough to silence some of his supporters. Obendorf says that by now his critics were getting the upper hand.

"These were the issues which had been kept covert all along. All these things were supposed to play against me going public, but I'd got to the stage where I had to be true to myself. I knew what I was up against, but I'm prepared to take it to the nth degree because I believe there are some major principles that have to be upheld. Systemic mismanagement and maladministration in the agency must be exposed; it ranges from resource allocation and funding to recruitment and employment of staff, and it's all coming to a head now."

Resolved: Two months ago, after a change of departmental head and Gray's retirement from politics, acting head Kim Evans told Obendorf he wanted the issue resolved, even if it meant his departure, but still opened up all options to find a resolution.

"He [Obendorf] was regarded as a stirrer," Evans says. "Not for what he

was saying, because some vets agreed, but many thought the way he was doing it was undermining the credibility of the organisation." Regarding the original complaint of declining disease control services, Evans says Tasmania is now free of many of the diseases government vets had continually checked for in the past. "At some point we need to question the need to have an army of vets on the ground to protect what is essentially a disease free status. With the constraints on public spending, we have to put money where the priorities are."

According to Evans, Obendorf did achieve an independent review of disease surveillance programs, chaired by a prominent member of the farming community, which recommended major changes and a capital works program that has been completed. "The world is moving ahead and Dave isn't," says Evans, who claims never to have heard of Obendorf's homosexuality being used against him. "I would condemn any such discrimination," he adds.

Obendorf is still employed by the government, is on workers' compensation for stress and is taking legal action against the department. He is also standing as a Green Party candidate in the February state election, having rejected the offers Evans hoped would end the affair. "I want an impartial adjudication of my situation," Obendorf says. "After a while you see why whistleblowers go wacko." □

BUMPER STICKERS

Isla McGregor has printed bumper stickers which say "WHISTLEBLOWERS - OUR RIGHT TO KNOW". They can be purchased for \$3 each. If anyone can help with selling them, please contact Isla on 002 39 1652.

New South Wales News

Activities and Administration

Col Dillon, President of WAG (the Queensland group), recently visited Sydney and met some of our members, attending our lunch social on 21st January and the Sharing & Caring meeting on the 23rd. Col was one of the original police WBs in Qld., and still works in the Force there, despite adverse conditions. It was inspirational to meet him and hear his story.

A good roll-up of twenty-six attended the first Branch meeting of the year on 4th February, where the guest speaker was Professor Stuart Rees, of the Dept. of Social Work & Social Policy at Sydney University. Speaking on "Bullying at Work", he detailed the problems in the national

culture, the organisational culture, and individual personalities which cause this phenomenon. His very informative talk, and the question time which followed, were greatly appreciated and warmly received. The Professor showed us a copy of a book he has co-authored, entitled "The Human Costs of Managerialism", which includes a chapter on bullying. It can be ordered through your local bookstore, cost \$29.95. The rest of the meeting was also very lively and interesting. Anyone who would like a copy of the minutes of this or previous meetings, please contact Richard.

We are still looking for members to start and coordinate any of these sub-groups: (1) Police (2) Railways (3) Health (4) Western suburbs of Sydney (5) Daytime meetings. Please


contact Jim or Richard if interested.

Committee meetings have been moved to the Thursday ten days before each Branch meeting and the venue changed. Non-committee members are also welcome. Contact Jim or Richard if interested.

Telecom

In response to our appeal in last month's issue, member Sandra Wolfe has offered to coordinate a Telecom group. Write to PO Box 574, Buderim, Qld.

Police

Important events are happening every day. See the special report by Jean elsewhere in this issue. 

NSW Police Service: the saga continues

BY JEAN LENNANE

On Monday, 5 February the Royal Commission released its interim report on the handling of complaints against the police. It is a rather (to us) bland document, though undoubtedly useful as a summary of what the Commission has shown to date. It refers to WBA's submission a couple of times, particularly our point about the roles of investigation and prevention/education being in fundamental conflict. Its main suggested solution is a Police Complaints Commission, which would be a standing version of the Royal Commission, using the same types of staff (and possibly many of the same individuals), and the same tactics. Many people in WBA have a problem with that idea, as in our now extensive experience any standing body is likely to be corrupted, and even if that could be avoided, it inevitably becomes absorbed into the bureaucracy, hence part of the problem, within two to three years. There is nothing in the proposal to prevent that, and indeed as it would continue to operate in extreme secrecy, without even Parliamentary committee oversight, the potential for its becoming worse even than ICAC seems very high.

The Report was also disappointingly gentle with Commissioner

Lauer, and with ICAC. In our view the responsibility for keeping an organization clean and effective rests with the person in charge, and it is time we abandoned the polite fiction that the boss of a seriously corrupt or inadequate organization can possibly be unaware of what is going on. It must be galling to impoverished whistleblowers to see that Mr Lauer has been paid \$210,000 a year of our money to produce the state of affairs exposed so far by the Royal Commission, with even worse to come. The Commission may have some tactical reason for its gentle tone at this point - if so, we will see in due course.

Meanwhile WBA's new relationship with the NSW Police Service continues. The next meeting of the Internal Witness Advisory Council is on 28 February, but in the meantime I have had two meetings about a research proposal, with Assistant Commissioner Christine Nixon, who is in charge of Human Resources, and Carolyn Smith, who is running the Internal Witness Support program. At this stage it looks as though the research is feasible, and has Christine Nixon's full support. On the principle of starting to look at the perpetrators

rather than the victims, we will be comparing the career paths of police who blow the whistle with police on whom they blow the whistle, and police who do neither.

Any whistleblower would expect us to find the whistleblowing police careers taking a nose-dive from the time they blow the whistle; the control group continuing unaffected; and the whistleblowers' careers also unaffected or even getting an upward boost. What I hope to be able to show is a clear angle of difference as career paths diverge from the time the whistle is blown, with the additional hypothesis that the angle of difference can be used as an indicator of the amount of corruption within an organization - as a marker of its state of ethical health.

There are obvious implications for the usefulness of such a marker. There is still a long way to go even with its first test, and it would have to be validated on a number of other organizations, corrupt and not-so-corrupt, before it could be generally used. However our being able to trial it in an organization while its level of corruption is being publicly exposed is a wonderful opportunity. □

Workcover

Member Stuart Dean, who pursued his own case to a satisfactory conclusion some years ago, takes a continued interest in Workcover matters. He is currently assisting two psychologists, Mark and Joanna Blows, in the preparation of a publication which may help claimants, including WBs, to avoid the many pitfalls others have suffered and to win their claims. If you wish to compare notes, phone Stuart on (02) 630 3819.

Protected Disclosures Act (NSW)

The branch is concerned that peo-

ple are continually contacting us to inform of the failure of the PDA, which has now been in force for nearly a year, to protect them from illegal detrimental action. WBs are still losing jobs, homes, and relationships. At the same time, we have yet to hear of even one instance of any investigating authority (ICAC, Ombudsman's Office, Auditor-General's Office) using its injunctive powers under its own Act and the PDA to prosecute anyone who has committed such action against a WB.

We hereby register our disgust at the Government's apparent total lack of interest in protecting, under the laws of this State, those public servants who courageously take issue

with malpractice and corruption, and we call on it to urgently correct the situation.

It is possible that amendments could be made to the PDA and the other three Acts which would make it easier for the said authorities, (and therefore more incumbent on them), to institute prosecutions which would have a good chance of succeeding in court.

The Australian Democrats, who have a platform of making Governments more accountable, are thinking along these lines. They recently approached us to get our ideas, and discussions have taken place.

This is quite encouraging. □

Policing a citizen's right to expression

BY RICHARD ACKLAND

From the Financial Review 9.2.96

While Justice Minister Duncan Kerr was in Sydney yesterday splashing around some federal funding on legal aid, back in his Hobart electorate of Denison things have not been entirely glossy and wonderful.

Last Sunday and Monday he had Mr Mick Skrijel stamping over his borough spreading leaflets that said some beastly things about poor Dunky.

Skrijel will be familiar to readers of this column as the former South Australian fisherman who made allegations of drug trafficking and official protection. The NCA subsequently brought a drug cultivation charge against him. An inquiry into the NCA's conduct in this case found there was substantial evidence that the NCA fabricated the case against Skrijel in order to secure his conviction.

Kerr rejected the recommendation that a royal commission be held and has sent the matter to the Victorian Deputy Ombudsman for further investigation. Skrijel claims this is a totally inadequate response.

The material that Skrijel was distributing in Denison contained all those details, plus some flourishes that Kerr was trying to silence him.

The Minister for Justice was on notice that Skrijel was going to publish this pamphlet because he had sent him a copy on January 30 and asked him to read it carefully and tell him where he was wrong.

The minister did not take up Mr Skrijel's generous offer. Instead on February 2 he wrote to Skrijel's lawyer in Melbourne, John Howie, of Howie & Maher, and said that the pamphlet was "wildly defamatory" and urged that the legal implications of distributing such material be made clear to Mr Howie's client.

He also sent a letter members of the media Hobart, dated February warning that he "would _ obliged to take legal action if any of the false and defamatory material were to be repeated in the media".

That letter went to the Hobart branch manager of ABC radio, among others, on the same day that ABC metropolitan radio host Annie Warburton was planning to inter-

view Skrijel on her afternoon radio show. Before going to air she talked to a friend, Mr George Haddad, who is working with Kerr's campaign team in Denison. Haddad cautioned her about interviewing Skrijel because he was likely to say something defamatory about Kerr on air. Warburton then pulled the plug on the interview.

Kerr says he was concerned about his own safety and his office requested the AFP conduct an "assessment" of Skrijel. This is quaint since in the time Kerr has been a minister there has been no apprehension about Skrijel. It is only when he turns up in the electorate wanting a debate that the flatfoots are called in.

On Tuesday, Warburton was visited by the Australian Federal Police, Kerr being minister responsible for the AFP. She was asked about her impressions of Mr Skrijel and his reaction to being told the interview had been cancelled. The police officer also wanted to know Skrijel's whereabouts in Hobart, which she did not ~have. She was asked by the ~AFP officer to get in touch with the he whistleblowers' organisation, ask them to contact Skrijel and invite him back to the studio on the pretence that another interview would be scheduled. It was suggested that she string Skrijel along and find out his address in Hobart, so that the copper could go and interview him about his pamphlet.

Naturally, like all good journalists, and also having been a lawyer herself, Annie Warburton declined to participate in this proposal.

In fact, the AFP did interview Skrijel, on Wednesday and yesterday in Melbourne. He was asked about the wicked pamphlet: how many had been distributed, were there any others, why was he "mentally harassing" the minister?

But why should a minister be so sensitive as to involve the federal police in the free expression of issues by a concerned citizen participating in the democratic process of an election campaign? This is an even more interesting question. □

Keeping whistlers mum

BY BRIAN TOOHEY

From Sydney Sun-Herald 21 JANUARY 1996

There is no surer way to become a pariah in Australia than to become a whistleblower. If you're lucky, you'll merely be hounded from your job without the usual accompanying innuendo that you are a media groupie motivated by malice, mental illness and a myriad other personality defects.

Despite the value of whistleblowers so clearly demonstrated by a succession of official inquiries in recent years, keeping your mouth shut is still the smart thing to do regardless of whatever examples of wrongdoing you might run across in your work.

Two current cases illustrate the point. While neither whistleblower has been subjected to the full range of indignities suffered by some of their predecessors, their fate hardly encourages others to come forward when public institutions are going off the rails.

At first glance, the case of Constable Karl Konrad in Victoria looks like a cheap parody. But it is real enough – and depressingly familiar.

Last year Konrad went public with his concerns about corruption in the Victoria Police. For his troubles, he was hit with departmental charges of going to the media and "acting in a manner prejudicial to the good order or discipline of the force".

Last week, we were given a further insight into ~"good order and discipline" within the force when Konrad released a tape of comments by the deputy head of Internal Investigations, Chief Superintendent Tom McGrath.

According to the tape, McGrath acknowledged "We've got drunks, we've got thieves, we've got pederasts...the way this job works, this brotherhood syndrome, whether you like it or not it's a fact of life in this organisation, it will seek to destroy you".

McGrath subsequently told *The Age* that he stood by what he had said on the tape, adding that the force contained a "brotherhood of people who are perhaps corrupt who will resist any efforts to penetrate that corruption".

Although last week's revelations came from someone at chief superintendent level, the Premier, Jeff Kennett, refused to hold an official inquiry. Ironically, Kennett's

response came in the same week that NSW Police Commissioner Tony Lauer announced his resignation just before the first report on police corruption in this State is due to be released by the royal commission headed by Justice James Wood.

There is no suggestion that Lauer himself is corrupt, but he has consistently denied that there is systemic corruption within the NSW Police – a claim Wood's public hearings have

nurturing whistleblowers, makes it all the more disturbing.

The whistleblower is none other than one of the corporation's own staff, the television journalist John Millard, who currently finds himself working in ABC radio's rural department. There is nothing wrong with working in the rural radio, but Millard would much prefer to be in TV where his skills really lie.

Millard is understandably suspi-



From *The Geraldton Guardian*

left in tatters.

The same complacent attitude applied in the Queensland Police a few years ago. Whistleblowers were ostracised and belittled until eventually the Fitzgerald Commission established that the problem was far worse than generally imagined.

Now Victorians seem destined to go through the same tired pattern of blaming the whistleblower. Constable Konrad is the problem. Corruption is something that happens somewhere else. Rest assured the problem is well under control. Indeed, the departmental charges against Konrad only prove that the force is deeply concerned about "good order and discipline".

The second whistleblower case at the moment has not attracted the same publicity – nor the same perverse form of punishment. Nevertheless, the fact that it involves the ABC, an institution supposedly dedicated to

cious about how he came to be shunted sideways. He was an award winning reporter on the television program, *The Investigators*, when he went public a little over a year ago with his concerns that the ABC's editorial integrity was being compromised by the source of some of the money it was accepting to make programs in areas such as health.

Millard says he only went public after futile attempts to get a satisfactory response from ABC management.

His concerns were undoubtedly well-founded. Although the ABC might not concede that his complaints played any role, it is about to release a new set of guidelines to overcome the potential conflicts of interest inherent in co-production arrangements where programs are effectively sponsored by government departments, fast food companies, and so on.

While an embarrassing investigation into Millard's complaints was underway, he went to work on another television program. *Hot Chips*. While he was away, *The Investigators* was canned for reasons which have yet to be convincingly explained. In best bureaucratic fashion, Millard was told that he was supposed to go back to *The Investigators*, and since it no longer existed, he no longer had a job in television.

After Millard complained that he was being victimised for speaking out, the ABC's managing director, Brian Johns, last month appointed a Sydney QC, Phillip Coleman, to investigate his treatment.

It is to Johns' credit that an inquiry is being held. At this stage, however, it is hard not to share Millard's suspicions about why ABC management did find a job for him within television.

Millard has done nothing wrong. Nor has Constable Konrad. But, in line with a long Australian tradition, it looks like they are being punished for being mug enough to blow the

ABC accused of victimisation

From *The Australian* 27/1/96

Two unions have written to the managing director of the ABC, Mr Brian Johns, claiming whistle-blower and former *Investigators* reporter Mr John Millard will be denied natural justice in a forthcoming inquiry into his case.

The Media Entertainment & Arts Alliance and the Public Sector Union said in the letter that because Mr Millard would not be able to give any material to the investigator for the inquiry, he was being discriminated against.

"It will be left to the investigator alone to determine what should be put to those involved in the investigation for their response," the letter

said.

"There is clear potential for the denial of natural justice through this limiting and discretionary filtering process."

The unions said they would participate in the inquiry "under protest". It was set up to determine whether Mr Millard was victimised after he blew the whistle on management editorial practices.

Mr Millard was a senior reporter with *The Investigators* and *Hot Chips*, but after *The Investigators* was axed he was not given another television job. He now works in ABC rural radio. Mr Millard said he found he was now being victimised. □

whistle. It is an ethos - silently encouraged by many in the media - which only breeds the sort of behav-

our that guarantees we will need a lot more Wood royal commissions in future. □

Labor's response to whistleblowing issues

I have received a response regarding the Federal Government's proposed whistleblowing legislation from Mr Keith Holland, Assistant Secretary, Security Law and Justice Branch of the Attorney General's Department. The response was in reply to letters sent to Mr Kerr, Federal Minister for Justice on 29 October 1995 and again on 27 January 1996. The response can be summarised as follows:

1. Due to the election, and the dissolution of the House of Representatives on 29 January 1996, for the course of the election campaign the Government acts as a caretaker government in accordance with convention. Mr Holland states that it is inappropriate for the Minister to respond to our letter.

2. Mr Holland also states that the issue of whistleblowing legislation will be considered by the incoming government. I understand from a clarifying conversation that I had with him that the legislation will be referred back to the Cabinet, regardless of which party wins the election. □

KIM SAWYER

WBA comment

Considering that Keating has been making policy statements right, left and centre, Duncan Kerr's inability

to provide WBA with Labor policy on whistleblowing must mean Labor has none. This is like Carmen Lawrence refusing to comment on health policy.

At the time of writing (20/2/96) it

would appear that the only parties to have made comment on their policy with respect to whistleblower and freedom of information legislation are the Democrats, Greens and No Aircraft Noise. □

Whistleblowers in the news

From *The Sunday Telegraph* 28/1/96

Whistleblower cleared

A senior Family Court whistleblower, who faced the sack after launching a scathing attack on management, has been cleared of disciplinary charges. Terence O'Donohue's job has been in doubt ever since he helped ignite a process of sweeping Family court reform by exposing operational flaws to a federal parliamentary inquiry last year.

Last week the Merit Protection and Review Agency overturned a finding against Mr O'Donohue which would have seen him dismissed from the public service in disgrace.

The three-member Disciplinary Appeal Committee unanimously upheld Mr O'Donohue's appeal against an internal Family Court find-

ing that he assaulted a client.

Mr O'Donohue's superiors recommended his dismissal after finding he punched a man in the back during an incident at Newcastle Family Court in late 1994.

The charge against Mr O'Donohue was laid several months after he agreed to give evidence to the parliamentary committee.

Mr O'Donohue told the Joint Select Committee of Certain Family Law Matters that the court had become "grossly hierarchical" and that he believed clients were not getting the service they deserved.

Late last year when the committee released its report on the funding and administration of the court it became clear the politicians agreed with Mr O'Donohue's evidence. □

Submission to the Royal Commission into the NSW Police Service

This is an open submission to the Commission by a member of WBA in response to the Commission inviting submissions about possible solutions to the problem of illegal drug trade and use and corruption associated therewith. The points of view expressed are opinions and should be viewed as just that.

Prevention of police misconduct & corruption associated with illegal drugs.

The problem of illegal use of heroin and its supply is inextricably linked with the phenomenon of police corruption and misconduct.

At the moment it would appear that there may be as many as 20-30,000 illegal heroin users in Sydney alone. This provides a ready market for the sale of heroin before one considers the growth of the problem.

One of the first short-term priorities must be to remove the monetary profits from the trade in heroin. There are two ways to do this: legalise heroin or provide free high doses of methadone at all public hospitals with well funded and supported therapeutic psychiatric and psychological care and treatment.

It is obvious that at present the political reality means that there would be widespread opposition from politicians and indeed the community at large to the first option.

The second option could perhaps be implemented as follows. Heroin would remain illegal in NSW. The NSW Government would fund a free high dosing methadone program to be available at all major public hospitals. Persons with a heroin problem would be able to register with the Department of Health without fear of prosecution at any time. They would be provided with free high doses of methadone together with an adequate well funded medical treatment program which would include proper counselling, medical monitoring of their methadone intake and where appropriate psychological and/or psychiatric treatment. Persons in jail would also receive the same treatment option. Persons who registered for the program would be rigorously and regularly tested for signs of continuing or other drug use and not be allowed to continue if they failed such tests.

The program could be run for an initial period of two years with statistical monitoring and medical evaluation during this period.

In tandem with the program it

might be worthwhile considering a strictly controlled study among a limited number of heroin users to see if the provision of free heroin under a regime similar to that of methadone was a useful option or not. It is postulated that the implementation of a program along the lines of the above proposals may have the effect of:

- Putting heroin dealers out of business.
- Drying up the supply of illicit money thereby decreasing the opportunity for associated police corruption.
- Decreasing the incidence of crime committed by heroin users to fund their habit thereby bringing savings to the community and perhaps police time and resources as well.
- Decreasing the use of heroin in jail and opportunities for corruption in the jail system.

Police resourcing and recruitment

It is very apparent that many of the problems associated with alleged police misconduct, corruption, incompetence and the perception by a substantial section of the public as not being interested in particular matters reported to them are due to inadequate resourcing for police in general. In tandem with other measures, there is a need for longer and better training and for an improvement in pay levels for police. (particularly for the junior "ranks" and recruits).

It is submitted that:

- Junior police pay should be improved with a minimum starting salary of at least \$35,000 plus appropriate over time for new recruits.
- That every recruit have a mentor for the first two years.
- That the numbers of police in each suburb in Sydney, Newcastle and Wollongong and each appropriate country area be substantially increased with a small police station in each such area. The emphasis to be on local beat type policing with adequate back up from mobile patrols
- That the initial period of police training be lengthened.
- That the minimum age for police recruits should be 25 years with emphasis on recruiting persons of all backgrounds who have had some other work and/or life experience. The maximum age for recruitment could be changed to at least 40 (or 50 especially for specialist functions such as legal research, investigative accounting scientific work and other functions).
- While perhaps the police should remain one single unified body they

should as an organisation be made accountable to elected local government in their respective local areas. (Preferably through a local council committee which would also include the local State MP as a member).

Lack of accountability to the community

At present police are only accountable to a large faceless bureaucracy in Sydney - Police Headquarters and the State Government. There is very little feedback from local areas with regard to specific concerns relating to law and order, good order and crime in those areas. Some responsibility for funding and administration could also be given to each area. Local council supervisory committees could be held in public and could include regular weekly opportunities for any member of the public to attend and participate in discussions. The Police Board could perhaps be made up of elected representatives of appropriate groupings of each area committee.

Police complaints

Complaints against police as well as being referred to the Ombudsman and internal affairs should have to be also referred to the proposed appropriate local area committees for on going monitoring and report. If a separate Police Complaints Authority is established instead of Police Internal Affairs and the Ombudsman there should still be this level of regular local accountability.

The operation of the Police Royal Commission itself

The main areas of complaint to date are: the apparent lack of formal accountability of the Commission to anyone else; and lack of assistance to informers and whistleblowers.

These problems could be addressed by the Commission receiving more resources and by the Government providing adequate funding to the Commission for informers for: proper legal representation in commission proceedings and other associated legal proceedings or context; employment and job seeking assistance; general financial assistance in needy cases; and counselling and if necessary psychological and/or psychiatric assistance.

The Commission should also be accountable to a standing Parliamentary committee and provision should be made for a formal procedure for handling complaints against the Commission.

In the public interest

Whistleblowers Australia

The goal of Whistleblowers Australia (WBA) is to help promote a society in which it is possible to speak out without reprisal about corruption, dangers to the public and other vital social issues, and to help those who speak out in this way to help themselves.

WBA uses two main approaches to achieve this goal. The first is to encourage self-help and mutual help among whistleblowers and the second is to support campaigns on specific issues.

Self-help and mutual help

The best ways for whistleblowers to succeed in their own efforts is for them to develop their own skills and understanding and to exchange insights with others in similar situations. WBA encourages self-help by providing articles and leaflets to whistleblowers and publishing a newsletter. The organisation encourages mutual help by holding meetings of whistleblowers and supporters, and by providing contacts with like-minded individuals and groups.

Campaigns

WBA supports initiatives and ongoing efforts to create a climate where people can speak out without reprisal. Some campaigns are: Free speech for employees. Repressive legislation and bureaucracies inhibit many workers from making disclosures. This legislation needs to be repealed.

The right of private sector employees to speak out on issues of social importance also needs to be promoted. Reform of defamation law. Australia's defamation laws are mainly helpful to the rich and powerful and frequently operate to prevent exposure of corrupt behaviour. The laws need to be reformed to allow public interest disclosures and to eliminate high legal costs and payouts.

Whistleblower legislation. Whistleblowers can be protected by laws against reprisals. At the beginning of 1996 there were five whistleblower acts in Australia, with no conformity between them. All have severe flaws and have been criticised by whistleblower organisations. One problem is that they only provide compensation, not protection against attacks in the

first place.

The organisation

WBA has a committee or contact in each state, plus a national committee. Some of the state committees organise regular meetings for whistleblower self-help and mutual help. The national committee maintains links between state groups, handles memberships, produces a newsletter and helps promote campaigns.

In the few years since it was set up, WBA has accomplished a lot. It has promoted whistleblower legislation, called for royal commissions into corruption and generally given whistleblowing a much higher profile. Just as important is its quiet work in supporting individual whistleblowers. It provides enormous benefits from shared expertise, moral support, access to research and links to relevant networks.

Nevertheless, there are limits to what WBA can do. It does not normally act as an advocate for individual whistleblowers. It has only minimal funds. All committee members act on a voluntary basis. Individuals should not expect WBA to provide a formal endorsement for their cases or to campaign on their behalf. What WBA can do is provide information and contacts so that whistleblowers and their supporters can become more effective in achieving their own goals.

BRIAN MARTIN
5 FEBRUARY 1996

National committee

- National President: Brian Martin. Phone 042 28 7860 (H), 042 21 3763 (w); fax 042 21 3452. E-mail b.martin@uow.edu.au
- Vice President: Jean Lennane. Phone 02 810 2511.
- Vice President: Isla McGregor. Phone 002 39 1652.
- National Director: Lesley Pinson. Phone 02 365 1723.
- National Secretary: Shane Carroll. Phone 06 231 2498, 018 62 3389.
- National Treasurer: Vince Neary. Phone 02 449 6370.
- Legislation Coordinator: Greg McMahon. Phone 07 378 7232.
- Conference Coordinator: Kim Sawyer. Phone 03 9344 8061 (W).

Dieting for stress

BREAKFAST:

Half a grapefruit
1 Slice of wholemeal toast
300mL skim milk
1 cup decaffeinated coffee

LUNCH:

30g grilled chicken breast
1 cup steamed carrots
1 cup herb tea
1 Tim Tam

AFTERNOON TEA:

Rest of Tim Tams
2 litres ice cream
1 jar caramel sauce
Nuts, cherries and whipped cream

DINNER:

2 loaves garlic bread
1 large pizza supreme
6 beers/bottle wine
3 milky ways

SNACK WHILE WATCHING TV:

Entire frozen cheesecake directly from the freezer.

Rules for this diet

1. If you eat something and no-one sees you, it has no calories.
2. Things licked off knives and spoons have no calories if you are in the process of preparing something e.g. peanut butter on the knife, ice-cream on the spoon.
3. If you drink a diet soft drink when eating chocolate, the diet soft drink cancels any calories in the chocolate.
4. When eating with someone else, your calories don't count if you eat less than they do.
5. Calories in food used for medicinal purposes **NEVER** count, e.g. hot chocolate, brandy, cheesecake.
6. Movie related foods such as Jaffas, popcorn or Minties do not add calories because they are part of the entire entertainment package.
7. Biscuit pieces contain no calories because the process of breakage causes calorie leakage.

Contacts and meeting details

Australian Capital Territory

Contact 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.

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 month at 12.30 p.m.

Next: 17 March at Sizzlers, Spit Road, Mosman; following: 21 April at Sizzler's, James Ruse Drive, Rosehill. 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).

Wollongong

Contact Brian Martin: 042 213 763.

Goulburn

Contact Rob Cumming: 018 483 155.

Northern Territory

Contact 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.

Contact Col Dillon 07 3353 1040.

South Australia

Contact Jack King 08 278 7853.

Tasmania

Contact 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.

Contact Kim Sawyer 03 9344 8061 or Keith Potter 03 9570 2371.

Western Australia

Contact Ian Vigar 09 964 3419.