

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



The Whistle

NO. 38, JULY 2004

Newsletter of Whistleblowers Australia

PO Box U129, Wollongong NSW 2500

Whistleblowers Australia Annual General Meeting

11.00am (provisional time), 27 November 2004

Melbourne Unitarian Peace Memorial Church

110 Grey Street, East Melbourne, Victoria

The AGM will be followed by a conference on 27-28 November.

Details will be in the next *Whistle*.

Tentative agenda

- Introductions
- Minutes of the previous meeting and business arising
- Reports of activities during the year, including campaigns, submissions, publications, Treasurer's report, etc.
- Strategy discussions
- Election of the office bearers and ordinary members of the national committee
- Other business and close of meeting

Nominations for national committee positions must be delivered in writing to the national secretary (Cynthia Kardell, 7A Campbell Street, Balmain NSW 2041) at least 7 days in advance of the AGM, namely by Saturday 20 November.

Nominations should be signed by two members and be accompanied by the written consent of the candidate.

In the past, we have consulted beforehand to find suitable volunteers. If you are interested in joining the national committee, it would be helpful to talk with one or more current members. (See back page for list of WBA contacts.)

Proxies

A member can appoint another member as proxy by giving notice to the secretary (Cynthia Kardell) at least 24 hours before the meeting. Proxy forms can be obtained from the secretary. No member may hold more than 5 proxies.

Media watch

Stand up for whistleblowers' rights

Margo Kingston
Sun-Herald (Sydney), 18 April 2004

Why do they do it, these whistleblowers? Why do they dare speak out? Whether in the private or public sector, often they lose their livelihoods, and the strain can damage their health, end their closest relationships and smash their friendships. Almost always they are smeared, threatened and put under intolerable psychological pressure.

What do they get in return for their courage, their defiant insistence that one person can make a difference and must, when faced with a choice between right and wrong, look the powerful people in their world in the eye and say "No!"?

They get pats on the back from some of us for a little while, but in the end they're alone with the friends they have left when the fair-weather ones have gone.

Lance Collins this week joined a growing list of public service whistleblowers who've stood up for truth, the public's right to be told it, and the public interest. Mahatma Gandhi said that whatever we do in the world is insignificant, but that it is very important that we do it. That's because when enough of us are brave enough to stand up for what is right, the world will change. And part of standing up is looking after our whistleblowers.

Unless we start doing what we can to back them, the public service will be beyond repair. It's our public service, in the end, and its ethics and commitment to the public interest are a bedrock of our democracy.

Robert Menzies put it well in 1942 in one of his "forgotten people" broadcasts: "Do not underrate the civil servant. He is for the most part anonymous and unadvertised, but he is responsible for by far the greater part of the achievements sometimes loudly claimed by others. He provides, as a witty friend of mine once said, 'a level of competence below which no government can fall'."

Just as ethics have collapsed in business, the ethos of service and duty is almost gone from the public service. Don't give the government the facts, because it doesn't want to know. Without the facts, or honest risk and effects assessments, the Government avoids taking moral responsibility for what it does, and can safely lie to us. In return, senior public servants get "performance bonuses", job security and "status". Why, they even get onto honours lists.

Funny, isn't it, that Collins didn't get an official award for his work in East Timor. Courageous, ethical people who care for their country and fight for its values don't get honoured by governments in the main. Who will honour our democratic torchbearers?

Web diarist Peter Gellatly wrote: "All the evidence points to the public having a very short attention span, and, subsequent to a fast but fleeting bout of moral outrage, not really giving a damn. This lack of public support is responsible for a dearth of overt fearless principle in the public service. The putatively courageous might be forgiven for concluding that the public they serve does not value, and is therefore not entitled to expect, the whistleblower's inevitable personal sacrifice — a sacrifice borne not just by the individual but by his/her family."

Web diarist Jamie Clark quoted Stanford University professor of philosophy Richard Rorty, who believes the West is becoming post democratic: "The progress humanity made in the 19th and 20th centuries was largely due to the increased role of public opinion in determining government policies. But the lack of public concern about government secrecy has, in the last 60 years, created a new political culture in each of the democracies. In a worst-case scenario, historians will some day have to explain why the golden age of Western democracy lasted only about 200 years. The saddest pages in their books are likely to be those in which they describe how the citizens of the democracies, by their craven acquies-

cence in governmental secrecy, helped bring the disaster on themselves."

How can we avoid this terrible trend? Wouldn't it be great if we raised money for a whistleblowers' fund for our nurses in NSW who spoke out about the decay of our hospitals; Lance Collins, who spoke out about intelligence services corruption; Andrew Wilkie, who told us before the Iraq war that the Government was lying; and many others. So many "ordinary" people have turned their lives inside out for us. We need to show them it's worth it. There could be annual awards, but there'd be ongoing financial support too, and hideaway homes when the going got tough, and help in finding work.

The balance of power is so stacked against the ethical individual that unless citizens do something to redress it, we'll run out of whistleblowers. We'll miss them when they're gone.

Whistleblower legislation long overdue

Edward Regan

Following on after the whistleblowers exposed inadequacies and incompetent dealings at Campbelltown and Camden Hospitals and the unbridled anger of the former NSW health Minister towards the whistleblower nurses, we are now witness to an inhumane, barbaric cruelty from various occupying forces in Iraq towards Iraqi prisoners.

Whatever advantages the Allies may have held, their position has been seriously eroded by the disgusting behaviour of a minority of soldiers, but worse still the ensuing attempts to cover-up this unforgivable behaviour at a high level is corrupt in the extreme.

On a personal level, I have witnessed a number of senior Australian Protective Service officers being quite loose with the truth at my Federal Court hearing and various appeals hearings as I sought to gain justice, as yet unsuccessfully. Now we have former disgraced NSW Police Officer Roger Rogerson and his wife openly admitting that they both perjured themselves before the Police Royal Commission several years ago and maybe are now subject to a lengthy prison sentence.

Recently, we had a very brave Australian Army intelligence officer, Lt Col Lance Collins, blowing the whistle, much to the indignation of various Commonwealth Government officials.

Surely, it is high time that the state premiers and their opposition parties, and Mr Howard and Mr Latham at a Commonwealth level, got together and in bipartisan agreement, enact legislation to protect whistleblowers by lifting the rules that effectively gag employees from blowing the whistle on incompetent practices, ineffective and corrupt managers, especially within the public service.

Perhaps it is long overdue for anti-vilification legislation to be also passed, whereby people who are

proven to have intimidated, harassed or vilified fellow employees, to have their assets become the means by which down-trodden employees are compensated for the failings and vindictiveness to which they have been subjected.

Of course, this would include people who are in a position to help such disadvantaged employees, yet totally ignore requests by these disadvantaged employees for review or assistance in combatting this evil vilification and the resultant corrupt cover-ups. With the ongoing exposure of liars and cheats at every level in society and the general population thirsting for more transparency, especially at a government level, such legislation is long overdue.

Request for inquiry into whistleblowing

[Editor's note: Longstanding member Kim Sawyer has written, on behalf of Whistleblowers Australia, to several federal politicians requesting a senate inquiry into whistleblowing. This is one of his letters. Results from this effort will be reported in future issues of *The Whistle*.]

April 18 2004

Senator Bob Brown
Parliament House
Canberra ACT 2600

Dear Senator Brown

On behalf of Whistleblowers Australia, I write to you to request your support for a Senate Inquiry into Public Interest Whistleblowing. In particular, I request that the Greens commit to such an inquiry in their election policy platform.

There are compelling reasons for a new Senate inquiry into whistleblowing. First, it is nearly ten years since the first Senate inquiry into public interest whistleblowing reported (in August 1994), and nine years since the second inquiry reported in October

1995. These inquiries remain the most comprehensive discussion of whistleblowing in Australia, because they examined more than 100 cases and many variants of legislation. We need to establish a contemporary comprehensive database on Australian whistleblowing. The existing state and Federal legislative frameworks are providing little information as to the state of play of whistleblowing in Australia. The data is simply not being collated.

Secondly, the first two Senate inquiries were conducted in the period 1993-5 when there was no Federal legislation, and legislation in only one state. Whistleblowing legislation and the concept of protection were in its embryonic form. It is now opportune to revisit the issue given the existence of Federal legislation and the existence of state legislations. The inquiry can then focus on the effectiveness of the legislation.

Thirdly a Senate inquiry can also focus on other types of legislation, which may assist whistleblowers, such as changes in defamation laws, the US False Claims Act, and legislation regarding public officials. In the last 10 years, there have been many new developments in whistleblowing legislation internationally. It has been the experience of other countries, most notably the United States, that whistleblowing legislation needs to be continuously refined. There have been amendments to the US legislation in 1979, 1986, 1989, 1994, 1998 and 2001. The difference in the US is also that there is far more comprehensive data collection. Similar refinement is required in Australia. A Senate inquiry can provide the information for that refinement.

Finally, and most importantly, a Senate inquiry is needed because the main problem facing Australian whistleblowers is not legislation, but enforcement. Australian regulators are demonstrating an unwillingness to investigate impropriety and to protect whistleblowers. The unwillingness of our regulators to use the power entrusted in them constitutes a significant regulatory non-response. And this non-response is resulting in significant

costs. In evidence before the HIH Royal Commission, an accountant testified that he forwarded a 21 page report to the Australian Prudential Regulatory Authority (APRA) more than three years prior to the collapse of HIH. The report showed that the net assets of HIH could easily be reduced to negative, which would leave policy holders unable to receive claims. APRA did not respond.

Because systematic statistical and case study information on whistleblowing cases is not being formally collected, evidence relating to regulatory non-response is necessarily exiguous. Typically, I do not discuss specific cases. However, I have decided in this letter to provide two examples to illustrate the problem of regulatory non-response. In the first case, I have omitted the specifics to highlight the process, rather than the case itself. In 2002, a staff member of a Victorian university wrote to the Victorian Ombudsman in relation to an internal inquiry that had been conducted at that university. In response, the Ombudsman concluded that

"The actions of the University were reasonable in the circumstances."

In arriving at this conclusion, the Ombudsman states that

"I have had the opportunity to discuss the issues raised with the Professor (who conducted the inquiry), and further consider his report in light of those discussions. It appears to me that the investigation into the matter has been conducted in a reasonable manner in assessing the allegations made. I am unable to discuss the specifics of my discussions with the Professor, however I can report that I am satisfied that there was no deliberate omission of key questions that may have compromised the integrity of the investigation."

The review of the Ombudsman is an example of the regulatory response that most whistleblowers receive in Australia. First, there was no formal investigation of the matters in question. The Ombudsman did not interview the whistleblower or their lawyer. Secondly, the review is not transparent. The Ombudsman does not

provide a reason for his conclusion. Finally, the Ombudsman did not attempt to determine whether the whistleblower should be protected.

The second example relates to university enrolments. In 2001, I was provided with information pertaining to enrolments at the Royal Melbourne Institute of Technology. This information is attached to this letter. It shows that staff were strongly advised to enrol in subjects in the University's TAFE sector in order to close a shortfall in demand, a shortfall which would have resulted in substantial financial penalties to the University. In June 2001, I referred this information to the Victorian Auditor-General, and was assured that an inquiry would take place. No inquiry eventuated. These matters were referred by another party to the Victorian Auditor-General in February 2003 and again there was an assurance that an inquiry would take place. No inquiry eventuated.

The responses of the Victorian Ombudsman and the Victorian Auditor-General have a common pattern. In both cases, there appears to be an unwillingness to investigate possible impropriety. This is the common experience of whistleblowers in Australia. Why do regulators fail to respond? The first possible reason is that the regulators regard the matters as not material. My view is that in the two cases referred to, the matters were fundamental to proper governance. A second possible reason is that the evidence presented is imprecise or biased. But in both cases referred to, no formal investigation was ever conducted to test the evidence. The final possible reason is that the regulators do not want to investigate the matters, because their primary role is to protect institutions rather than individuals. I have come to the view that this is the main reason for regulatory non-response. The reputation risk of institutions appears to be far more important to regulators than the protection of whistleblowers.

To fully understand the whistleblowing problem in Australia, we need to understand how whistleblowing laws are being enforced. Unfortunately, because regulators are not subject to formal scrutiny, there is little evidence on enforcement. I would contend that only a Senate inquiry will

produce such evidence. I request that the Greens consider promising a Senate inquiry into whistleblowing as part of their election policy platform.

Associate Professor Kim Sawyer
Department of Finance
University of Melbourne
Parkville, Victoria 3010

Australian standard on whistleblowing

Peter Bowden
peter_bowden@usyd.edu.au
(member of WBA)

AS8004 is a major advance in strengthening ethical behaviour in Australian organisations. Standards Australia is to be congratulated. But it needs much more work. The key question is how to ensure that it will be effective.

The new Australian Standard, AS8004 — Whistleblower Protection Programs for Entities, released 23 June 2003 — is a great step forward in protecting whistleblowers against reprisal when they report wrongdoing by their employer or their colleagues. The standard acknowledges that whistleblowing does occur and that whistleblowers need to be protected from the savage reprisals that are usually taken against them. Whistleblower support groups will also welcome that whistleblowing is now a legitimate activity, and that whistleblowers are not, as the letter to *Time* called them: "traitors to their organizations." But they will argue that AS8004, although a major advance, and to be welcomed, needs major rework. It has several weaknesses.

Most important is whether it will work. Enron Corporation had a 64 page code of conduct proclaiming its core values — respect, integrity, communication, and excellence — RICE for short. That corporate ethos was plastered on company T-shirts, its intranet, pamphlets, and paperweights. RICE was even emblazoned on a giant banner that hung from the ceiling at Enron headquarters in Houston. Sherron Watkins, Vice President for Corporate Development, wrote to CEO Kenneth Lay detailing a number of

causes for concern within the organisation. When everything came to light five months later, she even testified against him in front of a grand jury in Houston. Watkins even wrote to a colleague at Arthur Anderson, the now near-defunct accounting company that was Enron's auditor, about her concerns. Nothing happened. AS8004, even if followed, would not have prevented Enron's disintegration.

Watkins had no whistleblower protection legislation to support her. Whistleblowers in the private sector in Australia also have no legislative support. AS8004 is based on legislation in the Victorian public sector, where an ombudsman is obliged to examine the allegations. Other parties to whom the public sector whistleblower can go are the Chief Commissioner of Police, the Auditor-General, the Deputy Ombudsman, the Environment Protection Authority and the Victorian Workcover Authority. No private sector whistleblower can approach any of these agencies and receive protection. He or she has limited protection by the Australian Securities and Investment Commission, and the Standard should point that out.

We know that whistleblowers are victimised. The *Time* article that earned the letter of condemnation was on three women who went public about illegalities and mismanagement at Enron, WorldCom and the FBI. In 2002 *Time* voted them Persons of the Year. Each of the women suffered considerable discrimination from their fellow employees and supervisors. It is virtually impossible to keep secret the source of a whistle, for the conduct that is reported is often known to only a few people. The whistleblower is easy to identify. Fellow workers usually treat them as pariahs, and their bosses will follow up with a dismissal. One of Australia's leading ethics textbooks describes a former president of General Motors classifying whistleblowing as "eroding ... the loyalty of the management team, with its unifying values and cooperative work." The same book also questions the fairness of placing the burden of social responsibility of business on individuals. Management guru Peter Drucker says that "whistleblowing" is simply another word for "informing"

and that societies that encouraged informers were infamous tyrannies, such as existed during the Spanish Inquisition (as reported in CA Magazine, April 1999).

With opposition as strong as this, and with no protective legislation, what are the chances that a strengthened AS8004 can better protect the whistleblower and give a greater assurance of being successful? And success is what we need to achieve. Research conclusively demonstrates that ethical behaviour in organisations pays off. The organisational and personal relationships between people are more soundly based, requiring less checking and verification. Companies with an ethical culture are also more innovative and more financially successful. Related research also shows that, for the same reasons, economic growth in a country is directly related to the degree of honesty and trust among its citizens (see references). This trust depends on many factors, one of which is the institutional structures in a country that promote honesty and trust. AS8004 is the beginning of one such institutional mechanism.

AS8004 advocates two extra positions: an independent whistleblower protection officer and an investigations officer. Such positions, presumably part time, are a major step forward. But no internal staff member can be totally independent. He or she will be dependent on the chief executive or the board for their future success in the company. In addition to internal whistleblower reporting channels, therefore, companies need to establish an external organisation or person, clearly independent and with precise and known terms of reference, to whom a whistleblower can turn. That person or organisation would have the authority and the capability to investigate complaints, to take them to the board, regulatory or law enforcement authorities or professional associations as appropriate. Such steps are not that radical. Codes of ethics of some companies already permit such action. It is a much more specific stipulation than AS8004's vague requirement for an "external reporting line".

AS8004 also needs to tighten its definition of what is reportable

conduct. To ask a whistleblower to report "conduct which may cause financial or non-financial loss to the entity or otherwise be detrimental to the ...entity" reflects the public sector source of the standard. Whistleblowing on any waste and mismanagement in the public sector is of benefit to us all. Placing the same requirement on the private sector will encourage frivolous complaints. The reporting of problems within the corporation needs to be confined to activities that are illegal or clearly not in the public interest. That way, and with suitable external protection, a public spirited employee of HIH or FAI might have spoken out against the wheeling and dealing that marked those debacles in Australian corporate history, well before thousands of people lost their savings and their insurance protection.

Another area where AS8004 needs tightening is in its encouragement to whistleblow on unethical conduct, or other seriously improper conduct. What is unethical conduct? Or improper conduct? Peter Drucker would complain that whistleblowing itself is unethical. Is large scale downsizing unethical? Is meeting extortion demands in many Third World countries unethical? Tighter definitions are needed to guide both the whistleblower and the investigations officer. AS8004 suggests using the Australian Standard on Codes of Conduct as a guide (AS8002). This standard does provide guidelines, which could well be incorporated into AS8004, but even then, there are many weaknesses in AS8002. The major one is that it does not have any external means of rectifying a wrongdoing. Recent examples in Australia show that relying on internal correction of an ethical problem is ineffective. Weak codes have resulted in damage and suffering to clients, falsified research grant applications, nepotism in recruitment, promotion and dismissal, and bribery to achieve preferred treatment of clients. A code of ethics needs to be specific to the company, to the industry in which it operates, and to the obligations of the professional disciplines that comprise its staff, but it also needs to be enforceable.

In summary: AS8004 on whistleblowing is a major step forward, as is its companion standard AS8002 on

codes of conduct, developed at the same time. Standards Australia is to be congratulated. They are only first steps, however, and both documents need to be expanded to further define what unacceptable conduct is. The whistleblowing standard also needs to introduce more rigorous and independent steps to ensure that whistleblowers not only can speak out without reprisal, but that institutional and corporate mechanisms are established that ensure that their speaking out is acted on.

References

Marc Orlitzky, Frank L. Schmidt and Sara L. Rynes, 'Corporate social and financial performance: A meta-analysis,' *Organization Studies*, Volume 24, Number 3, 2003; Joshua Daniel Margolis and James Patrick Walsh, *People and Profits? The Search for a Link Between a Company's Social and Financial Performance* (Mahwah, NJ: Erlbaum, 2001); Paul J. Zak and Stephen Knack, 'Trust and growth,' *The Economic Journal*, Volume 111, April 2001.

Police reform in NSW: Paul Herring's story

Derek Maitland
Media Officer, WBA

Think back to the spring of 2000, and you may remember, as I do, that it was not just the triumphant aftermath of the Sydney Olympics but also yet another time of high drama, blood-letting and confusion within the much-beleaguered New South Wales Police Service.

It was confusing because if you weren't privy to what was going on in the highest echelons of the force, you could only sit back and wonder if, in the wake of the damning Wood Royal Commission into police corruption and maladministration, the service wasn't tearing itself apart completely.

Commission Peter Ryan, enlisted at great expense and fanfare from England to administer and reform the service in the wake of the Wood inquiry, was suddenly under threat from the force and the Carr Government "out on a limb," as his situation at that time has since been described.

Supt. Ken Seddon, the man Ryan had brought from England too, to set up a new intelligence-based crime management unit covering the area commands, was just as surprisingly under attack — he was given the boot, and his chief colleagues either fired or suspended.

Then Ryan himself was fired by the Carr Government's political hatchet-man, Michael Costa ("Where the hell did he come from?" you may have asked), whom I recall now as stepping in and taking control of the whole affair with about as much subtlety as a shaven-headed, heavily bespectacled Brahmin bull crashing purposefully through a picket fence.

Then Ryan was replaced by Ken Moroney, a man who's put the commissioner's uniform and boots back into the commissioner's chair and who, to many minds, is exactly what was needed after all the intrigue and bloodshed — the comforting look-alike of an uncomplicated, benign, true-blue Aussie desk sergeant heading the force.

It was left to the resulting Malta inquiry — a probe that lasted 70 days, interviewed 52 witnesses, produced seven thousand pages of transcript, cost the NSW taxpayer \$8 million and then concluded that no-one was guilty of anything — to leave observers like me with the same questions I'd started out with: What the hell is this all about? What's been going on?

Had there been a backlash or counter-attack against efforts to reform the badly tarnished service? It certainly looked that way, with Ryan and Seddon gone and Seddon's landmark Crime Management Unit demolished.

But if you talk to whistleblower Paul Herring, one of the chief instigators of reform and a chief victim of the whole shabby episode, suspended and virtually out of work for the past three and a half years as a result of it, the "Malta Affair" was more to do with management conflict and behaviour than straight-out wrong-doing. And it's produced the disturbing scenario of a traditionalist, military-style organization refusing to adopt modern management concepts and practices and preferring instead to retain a style of command based on discipline and, in some cases, fear. All of which does not bode well, as you might imagine,

for the fight against police maladministration and corruption.

Paul Herring found himself in the vanguard of management reform when Assistant Commissioner Christine Nixon (now Commissioner of the corruption-plagued Victorian police force) enlisted him in 1995 to examine conflict management in the NSW service in the wake of the Wood royal commission. He was eminently qualified for the job: he'd been in the police force from 1977 to 1990, and had then spent five years in the private sector as a corporate manager and PR consultant before returning to the service.

Together with Terry O'Connell, a "guru in restorative justice," and Jim Ritchie, formerly with ASIO and now lecturer in ethics at the NSW Police Academy, Herring began work on a project which was aimed at a complete sea change in the way the police service runs itself. The team, called the Conflict Assistance Group, got to work with what Herring describes as a "group dynamics discipline to resolve and heal conflict, which was more well known in community work but which we'd adapted as a police model."

Herring says it wasn't an easy programme to push in the police service — "It made certain people accountable for inappropriate behaviour," and he explains the sort of entrenched management attitudes it was up against.

"We were trying to pioneer an improvement in relationships in police management, trying to implement a fair and decent process and, significantly, stop workplace bullying. But we faced a very authoritative, obedience-related organisation that doesn't allow much room for innovation, creativity or flexibility."

The group based its work on the 10 key reforms recommended by the Wood royal commission, and its chilling observations on police management — basically that it was an inward-looking management characterised by fear and intimidation, with officers too scared of the people above them to say what was on their minds.

Says Herring: "Many officers were working in isolation. Crime fighting was suffering. When you get cops who fear the police station more than the

streets, you can see what the damage is going to be to the system."

"When you consider that the NSW police service is virtually a major corporation, a \$1.6 billion-a-year business, you have to find the right people to run it, and to run it properly."

It was Commissioner Ryan's UK protégé, Ken Seddon, who in 1998 gave the programme its biggest boost. Seddon had seen how well a model launched with the Shoalhaven police, south of Wollongong, had worked, and after a formal presentation by the group, Herring says he saw it "as the missing link to what he was trying to do in crime management in the field."

Herring says Seddon went to Ryan and "tried to sell him the idea that it should be integrated with his own crime-busting programme." He says Ryan's response was not just curious, considering he'd been given the job of rebuilding and reforming the damaged service, but bluntly indicative of the resistance that was building in the service by that stage. "Ryan told Seddon: 'Beware of that group,'" he says. "The commissioner didn't like Terry O'Connell or Jim Ritchie."

However, Seddon stuck to his guns, and managed to convince Ryan that the scheme would work, and the two programmes — his own crime-busting effort and the management group's behavioural change process — were amalgamated under a new Crime Management Support Unit.

Two years later, by mid-2000, it was clear that the groundswell of opposition within the force to management behavioural change was not going to be overcome. "We had the feeling that senior commanders in the field had been got at — they were reticent, to say the least," Herring recalls. And by then it wasn't just the programme that was getting stonewalled, but personalities too, particularly Ken Seddon.

"Cops hate change. They hate change of any kind," Herring says. "Especially from someone from England." And the frustration that the group felt at that time — "a constant rollercoaster of expectation and emotion," as Herring puts it — exploded dramatically in an incident that he attributes to Jim Ritchie. "We were told: 'There are just a few bad apples opposing the programme'.

Ritchie retorted: 'No. It's the whole barrel that's rotten'."

In October 2000, the whole struggle came to a head. First, Jim Ritchie decided to go public on the resistance and antagonism within the force. Then Paul Herring decided to take the whole affair to the Police Integrity Commission. On the day he went there, Ken Seddon called a media conference to expose what he termed "corrupt processes of management" within the police. Then Jim Ritchie held a press conference of his own.

As in most whistleblower cases, the police hierarchy struck back, and hard. Ryan sacked Seddon and Ritchie. Paul Herring was suspended from duty, and his salary cut by \$30,000. The commissioner then instigated an Internal Affairs probe into his, and the team's, travel expenses. "Ryan's words were: 'Get dirt,'" he charges.

Again, the question begs: why did Commissioner Peter Ryan, the man charged with restoring the NSW force, behave the way he did? Herring attributes it to ego and inflexibility. "Ryan was a pretty sharp criminal investigator, but he also gave the distinct impression of being a megalomaniac, besotted with his own importance. He also knew nothing about creative management, and was out of his depth when it came to changing the police culture and behaviour."

Astonishing as it may seem, Paul Herring was suspended from his job — still employed but forced to stay at home — for a full three and a half years. And most of the time was spent fighting off the service's attempts to smear him and find a legitimate reason to kick him out altogether, and rallying legal support to challenge the suspension, meanwhile working for Meals on Wheels and as a driver for a nursing home.

"I tried to get the ICAC to investigate the case, then the NSW Ombudsman, then tried to get it raised in State Parliament," he says. He vividly recalls going through the sort of trauma that most whistleblowers suffer — a lack of support from his colleagues within the police hierarchy leaving him with a "sense of a lack of self-worth" and a frustration that gave way to bouts of depression and rage that almost destroyed his marriage.

When the Malta Report came out in November 2002 it recommended that he be reinstated on his original salary. But nothing happened. Instead, the Commissioner gave notice of a second "disciplinary inquiry" into the already flimsy allegation that he'd been rorting travel expenses.

But by this time, Paul Herring had had enough. He launched a Supreme Court action involving breach of contract. It was also at this time that he contacted Whistleblowers Australia, and received great sympathy, advice and support from President Jean Lennane and other members.

In March this year, just as his case was about to come up in the Supreme Court, there was a sudden move for mediation by the police service. The settlement, reached on March 10, agreed to his return to work, and it came as a complete shock considering the three long years that had lapsed by then.

As Herring says: "I asked them: 'Why has it taken three and a half years to come to a decision that you've just made in half an hour'?"

But his crowning triumph came when Supt Peter Gallagher phoned him and offered him a job. Gallagher had been commander at Orange when Herring's management behaviour model was tested there. He'd been impressed by a resulting reduction in local crime.

After the Supreme Court settlement, Gallagher was instructed to review Herring's file. He rang Herring to tell him he'd found nothing in his case to substantiate suspension, was therefore lifting it and offering him a job in employee management under his command at Hornsby Police Station.

His wife, Jacqui, recalls: "Paul got off the phone and cried for three or four minutes. He just sobbed. He'd got his sense of himself, his faith in himself, back at last. It's terrible what ruthless people can do to you, what they can rob you of."

Now back at work, Paul Herring has found that things have changed somewhat since the bloodbath that culminated Commissioner Ryan's reign. And they've changed somewhat for the better. "What's happened since I was pushed out is that a lot of disgruntled mid-level officers have gone. We're left with a lot more

young, enthusiastic officers who genuinely care about people and making a difference."

And this was all Paul Herring was after in the first place. As he says: "In essence, the police service is a corporation, and our customers are the people of New South Wales. And they deserve the best police service we can give them."

Misconduct at UNSW

Amanda Chang

[Editor's note: In the January issue of *The Whistle*, Derek Maitland wrote about the case of Margaret Love, a manager at the Education Testing Centre (ETC) at the University of New South Wales (UNSW). This article, on the same general topic, arrived under the apparent pseudonym "Amanda Chang." I checked the contents with a knowledgeable person. As well, I invited comments from the Director of Communications at UNSW, but received no reply. The article has been edited for expression.]

ETC was in the headlines in 2001 for its management practices in earlier years. Several damning independent reports, such as one by the NSW Audit Office report in November 2001, recommended thorough reform. An equally critical Ombudsman's report was not published but attracted further damaging headlines affecting the reputation of UNSW and the whole Australian higher education sector.

The continuing saga of misconduct allegations against UNSW staff shows no sign of ending. Following investigations some years ago into mismanagement at ETC, recommendations for reform were made by the NSW Audit Office, the Ombudsman and the Independent Commission Against Corruption. The then Vice Chancellor, John Niland, made a commitment to implementing the recommended reforms. However, according to ETC staff I spoke to last year, this did not influence the UNSW culture, or accepted strategy, of "lying, cheating and covering-up." Subsequent management decisions at ETC only

make sense in the light of this covert agenda.

The Independent Commission Against Corruption (ICAC) ran a workshop in August 2002 on *Degrees of Risk, A corruption risk profile of the NSW university sector*. It used ETC as an example as follows.

An example of what can go wrong if monitoring and oversight are inadequate is exemplified in recent findings by the AO [Audit Office] and Ombudsman in relation to the management of the Education Testing Centre (ETC) at the University of New South Wales (UNSW). Problems at the ETC were found to be serious, of long standing, and, despite complaints about them, not acted on by the University. ... The AO's most recent report, in November 2001, concerned the Educational Testing Centre at UNSW. The AO's opinion was that there were shortcomings at several levels, including:

- Detecting and investigating problems that had existed for several years, yet remained undetected
- The corporate oversight of the centre, from high level oversight, for example, identifying and documenting management of the financial and other risks, to specific personnel issues, for example, the structure of position descriptions, and,
- Management within the Centre. In short, not only did "all the findings point to a serious lack of management controls, proper accountability and management practices with the ETC" ... More specifically the AO found serious inadequacies in the way the UNSW:
 - Monitored the Centre's performance
 - Documented the Centre's budget process, and,
 - Oversaw the activities of the Centre, including its business decisions.

ICAC has been advising UNSW on the handling of misconduct issues, particularly on the Professor Bruce Hall case, which has been continuing

in parallel with the ETC issues, and is being handled by the same individuals.

The issue is the self-regulation of workplace conduct in Australian higher education. Self-regulated workplaces have come under criticism for the tendency to cover up wrongdoing. Michael Bradley, writing for the *Sydney Morning Herald* on 15 March about psychotherapists and sexual misconduct, commented on internal investigations: 'The Catholic Church's preference for a similar approach of "in-house" investigation was roundly blamed for spawning the culture of secrecy, deception and intimidation after a 2002 investigation in which 1200 American priests, shielded for decades by their colleagues, stood accused as sexual predators.'

The UNSW response to the scandals involving ETC was to transfer control to a wholly owned UNSW company, NewSouth Global (NSG), from 1 July 2001. The previous failures were personalised and the previous management was blamed, not for management performance, but for failing to cover up by getting rid of any troublemakers before the issues went public. NSG appointed Kerry Hudson as acting General manager in mid 2001 and the search for a replacement for Professor Jim Tognolini, the then Director of ETC, was undertaken. The head of ETC is a high profile position liaising with state departments of education, private school organisations, schools throughout Australia and the full range of international schools education stakeholders, particularly in New Zealand and Singapore. The head of ETC represents UNSW in a sensitive and important field of schools education and has a high media profile right down to being often quoted on school websites and in publications.

In November 2001, Dr Alan Bowen-James was chosen to be ETC's new General Manager, with the decision made by Professor John Ingleson, CEO of NSG, and Kerry Hudson. The choice was controversial, and immediate written complaints were sent to Professor Ingleson. Dr Bowen-James had an unfortunate reputation based on his professional misadventures. In 1992 (27 [NSWLR] 457), in a unanimous NSW Supreme

Court finding, the judges said of Dr Bowen-James:

Referring to the false statements made by the appellant in his applications for positions the deputy chairperson and lay member said: ... 'His response to cross-examination was one of evasion, shifting his ground and, we are quite satisfied, lying on his oath.' when referring to previous Medical Tribunal hearings, and further found that 'This assessment of his evidence which depended upon established falsity in statements made by him and his responses in cross-examination is unchallengeable.'

The three Supreme Court hearings in regard to Dr Bowen-James case did not alter the medical tribunal finding that Dr Bowen-James was guilty of sexual misconduct, and he was struck from the register of medical practitioners.

The ETC staff objecting to the appointment of Dr Bowen-James were concerned about his suitability. One staff member I spoke to suggested that "abuse of workplace power was a contributor to the previous ETC problems and it made no sense to appoint a person who had a proven record of workplace sexual misconduct and dishonesty". Professor Ingleson and Kerry Hudson, on the other hand, were impressed by Dr Bowen-James and he was working behind the scenes until an extended hand-over process, and took up the full-time general manager role on 1 July 2002. The appointment of Dr Bowen-James was quickly followed by the appointment of his close colleague Alexander Roche to a key information technology management position at ETC. Earlier in 2002 Mr Roche had conducted an independent review of the ETC IT section which was very critical, and made some recommendations for reform, including the recruitment of two senior IT professionals to lead the ETC IT effort. The second high level appointment to the ETC IT section was Chris Mountford, another close colleague of Dr Bowen-James.

The new IT effort required an entire additional team later in 2002 and PRONTO, the new software solution,

was born. The previous reviews had been critical of the previous major software project known as MARP because of cost over-runs of millions of dollars, delays and shortfalls on capability. The PRONTO project was the result of the UNSW reform process, and featured in the 2002 NSG Annual Report. The NSG Annual Reports are all gloss and no substance so it is no surprise that the PRONTO project just disappeared from the 2003 Annual Report. The project was abandoned in 2004 as a total loss. No over-runs, delays and shortfalls — just a total loss of millions of dollars. Dr Bowen-James resigned suddenly in November 2003 and Alexander Roche and Chris Mountford resigned in May 2004.

Dozens of complaints to Professor Ingleson about Dr Bowen-James and the new management team were made from November 2001 until the last departure. The total financial loss to ETC, NSG and UNSW cannot be calculated because all efforts to implement the recommended financial reforms were abandoned in favour of more flexible financial reporting arrangements. The financial information on ETC is in the NSG Annual Report: nothing. There is apparently still no meaningful internal management information for ETC managers, which was a major issue in the previous reports. The 1.5 million students entering the Schools Competitions run by ETC have no idea where the \$6 fee per entry has gone, and neither apparently does UNSW management.

In a letter to the UNSW Council and the NSG Board on 4 September 2003, Peter Curtin, the ETC Services Manager, raised a number of serious issues including financial reporting. The 'strictly confidential' letter from Mr Curtin was published by Dr Bowen-James, with a rebuttal, the following week. The document was subsequently emailed around the world to all interested parties, and I received a copy. The allegations were nothing less than that the managers of ETC were intentionally misleading the NSG Board and UNSW Council. When I last spoke to Mr Curtin he had received no reply to his letter but was subject to a "frantic campaign of retribution". Mr Curtin was expecting

to be a "forced redundancy in a sham restructure" in November 2003.

The complaints from ETC staff were backed up by deteriorating performance at ETC, and even the UNSW student newspaper was in on the '*Scandal at UNSW*' in March 2003 (*Tharunka*, volume 29, issue 2). The commitment of UNSW management to the support of Dr Bowen-James was absolute and he was given protection and immunity from any form of complaint, for an extended period. Dr Bowen-James delegated this privilege to a selected few at ETC. The protection of UNSW staff extends to the payment of 'hush money' that is exchanged for deeds of release.

The deeds of release used by UNSW give complete protection to UNSW staff from any legal recourse for workplace misconduct or, it would appear any unlawful activity whatsoever. By signing one of these deeds, the victim releases and discharges the University from: (1) any rights, demands, claims, actions, suits, complaints or proceedings that either may now have, have had in the past or may either now or in the future have against the University; (2) anything related to the subject matter of the deed. The victim is gagged: they are not to make any adverse statement, publicly or otherwise, about the university or any of its officers.

UNSW is a financial and legal giant with no need of protection from legal action by individuals. The misconduct of UNSW staff, which the deeds seek to cover up, can only be imagined. These are the same sorts of contracts used by churches to cover up for the sexual predators in the clergy. The deeds of release are routinely used by UNSW and are a major expenditure. The Commonwealth Government funds universities, so ultimately it is the Minister of Education, Dr Brendan Nelson, who is responsible for the deeds used at UNSW. The issue of misconduct in higher education is escalating, and any intervention will need to come from the Commonwealth.

The need for reform of the handling of misconduct allegations in universities has been recognised, especially in relation to the Bruce Hall issue at UNSW. Vice-Chancellor Rory Hume resigned over the issue early in

2004 and there are apparently at least two more inquiries underway, making at least six in total so far, if you don't count Supreme Court hearings. The issue has been mishandled by any measure and all sides acknowledge the need for a better system. In the *Sydney Morning Herald* on 19 April, Professor John Dwyer was quoted as saying "The minute these things come to light there should be an independent body set up to look at them in a way that's fair to all parties."

The system of privilege, immunity and cover-up at UNSW is contrary to the rights of the thousands of other staff and students, including the largest population of international students in Australia. Ending the workplace cultures of 'secrecy, deception and intimidation' is necessary for the continued international success of Australian higher education.

Whistleblowers Australia
Media brief - April 15, 2004

Deaths of convenience

Possible homicides in which police are suspected of being involved

NEW SOUTH WALES

1. Gary Lee-Rogers

Gary worked for the APS, a branch of the AFP, as a training officer. He was in email and other contact with WBA for about a year before he died, as a whistleblower who was being victimised and threatened within the APS, including being charged with criminal offences and receiving threats to his life. His problems began after he made a report, as part of his APS duties, on security failings at Sydney Airport. He was later told by an anonymous informant that he had "tripped over evidence of drug importation through Sydney Airport, involving the old Commonwealth Police Network." He told Internal Affairs of the AFP on September 26, 2002, shortly before he died, that he'd been badly beaten by a fellow officer (and gave the officer's name). Earlier he had told WBA that if he was found dead it wouldn't be suicide but murder by this officer or other APS colleagues.

On October 1 he was found dead in his flat, having been dead for several days. Police are reported initially to have given the cause of death as massive bleeding from a ruptured stomach ulcer. The autopsy dismissed this. In the first week of the inquest, lawyers for the Crown Solicitor's Office seemed to favour a self-administered overdose of insulin as the cause despite the lack of supporting evidence. In a detailed critique of the investigation into Gary's death and the evidence and conduct of inquest thus far, Dr Jean Lennane concludes: "With Gary's inquest half over, many, many unanswered questions remain. Most may never be answered."

2. Roy Thurgar

Thurgar was shot in his car in Randwick in May 1991. His case is current because **Gary Nye**, who was framed for his murder, sued various NSW bodies and police for damages for wrongful arrest, malicious prosecution and false imprisonment. In December 2003 Nye was awarded \$750,000 in exemplary damages, of a total of \$1.3 million.

There was never any question of suicide by Thurgar, but he was due to give evidence to an ICAC inquiry about drugs in jail (where he was a regular resident) and other alleged police/criminal relationships. That part of the inquiry collapsed with his death. Our informant on this is an ex prison officer who was to give evidence at the inquiry too, but lost his job and his driving licence within a week of blowing the whistle. He subsequently moved interstate. ICAC is currently launching another inquiry into drugs and other contraband in a particular jail, but concentrating on one very low-level operation and individual rather than the large-scale, high-level drug trafficking to and from our jails, that Thurgar was about to expose.

3. **Ex-Sergeant Hazell**, from Caringbah area. He apparently gave evidence to the Wood Royal Commission, resigned around then; and died of a stab wound to the heart around October 2002. According to an article in the *Daily Telegraph* there were no fingerprints on the knife, and his wife insisted it wasn't suicide, that he was killed because of his evidence

to the Royal Commission. **Jean Lennane** raised the case with **Assistant Commissioner Peter Walsh**, and says he "was obviously very well aware of the case, but said he couldn't discuss it as there was to be an inquest."

4. **Arron Light** went missing in September 1997. He was a key witness in a court case the following week re a paedophile ring ('Circle of Friends') connected with Dolly Dunn. The case collapsed with his disappearance. His skeleton was found wrapped in a tarp in March 2002 by workmen clearing a block of land in Sydenham. He'd been stabbed at least six times. His murder is still being investigated by the Homicide Squad and Newtown police. A detective sergeant we spoke to there seemed genuinely concerned that the prime suspects (whose case could not be prosecuted without him) were apparently getting away with it, and while Arron's case doesn't really fit into the "deaths of convenience" there is concern about possible police involvement after the fact if not before (e.g. disclosing his whereabouts to the accused paedophiles).

5. North coast, Port Macquarie murders

A State Crime Commission task force **Yandee** was set up in 1996 (report in *Daily Telegraph* 24.8.96) to investigate eight such murders, but it doesn't seem to have gone anywhere. Large-scale drug-growing and dealing seems to be behind all the deaths.

5a. Mack Towns

Towns, a 73-year-old, lost a lot of money in an alleged scam run by **Detective Inspector Bob Williams** and a local solicitor. Towns also had information on other drug-related matters in the area. He was allegedly threatened by Williams (there are tapes in existence relating to this), who told him he'd be "the next to be murdered." Towns was subsequently known to be heading for Sydney, to blow the whistle on Williams. His body, severely decomposed, was found months later, near Berowra Waters. The cause of death was not ascertained. The coroner said Towns died of natural causes. His widow Thelma says the clothes he was found in were such

that he would never have voluntarily left the house in them — apparently he was a very snappy dresser, and very particular about his appearance. She thinks he was murdered, though not necessarily by Williams.

Bob Williams died last year, and was given a full police funeral. Assistant Commissioner Peter Walsh was a friend of Williams and Area Commander during the period in which Williams was linked with unexplained deaths in the region.

5b. Victor Noakes

Noakes, a 62-year-old bushman from *Wauchope*, was another anti-drug whistleblower allegedly threatened by D.I. Bob Williams. Noakes disappeared from his property in 1987. His body has never been found, and he's thought to have been dumped at sea, or in the Pappinburra state forest, where the body would probably have been eaten by wild pigs. His niece has told one of our contacts in the area she's convinced Williams murdered him.

5c. Russell Lawrence

Lawrence, a 35-year-old self-employed window maker, informed police about drug cultivation in the area, and his information apparently led to "two large drug crop seizures." He was shot dead in May 1988 after being lured to an isolated farm on the pretext of doing restoration work, and was one of the cases reopened by task force **Yandee** in 1996. There was no question of his death being anything but murder; but it has never been solved.

5d. Vijay Sen

Sen was also an anti-drug informer, and according to information that **Mack Towns** gave our informant in the area, he had also been threatened by Bob Williams. He was stabbed to death in 1995. George Wilson was subsequently found not guilty of the killing on grounds of mental illness; and does indeed seem to have been psychotic at the time. The question remains open, however, on whether Wilson's delusions were fed by anyone else, convincing him that Vijay Sen was danger to him and should be killed.

6. Graham Rogers

Rogers, a prisoner in a **Sydney** jail, wrote to Professor Tony Vinson at the University of NSW in April 1987 informing him about the prevalence of heroin smuggling and use in the jail. Professor Vinson, in good faith passed the information to the NCA (National Crime Authority). The NCA informed the NSW Department of Corrective Services, in an open letter, that it wanted to interview Rogers about his allegations. Rogers was jumped in the prison yard and injected with a lethal dose of heroin. He is alive today because of the quick action of prison officials.

7. Mick Drury

Drury, a NSW Police officer and close associate and co-whistleblower of **Debbie Locke**, whose evidence on police corruption and misconduct helped spark the Wood Commission (see her book *Watching the Detectives*). Drury was shot through the kitchen window of his home in 1984. He was seriously wounded, but survived.

VICTORIA

Ray Hoser's books, Victoria Police Corruption (volumes 1 and 2) are the source for most of the following cases. Ray was in court again on April 15, trying to defend charges of contempt of court arising out of their publication. Hoser did not confine himself to allegations of police corruption, also citing instances of allegedly corrupt behaviour by various members of the judiciary. This led to his being charged with the ancient offence of "scandalizing the courts," subsequently changed to the more modern "contempt of court." The books, like Avon Lovell's *Mickleberg Stitch* in WA (see below), were also effectively banned in Victoria, where the Attorney-General took the unusual step of writing to booksellers warning them not to sell them.

The books list 40 fatal police shootings in Victoria from 1982 to 1998, confirming Victoria's lead over the rest of Australia. They also detailed the irregularities within the Drug Squad that are now suspected to be at least partly behind the "gang war" killings, before this misconduct became widely known.

The "official" police shootings include the following questionable cases.

1. **Walsh St killings** of two police constables Steven Tynan and Damien Eyre on October 12, 1988. A very murky case, allegedly involving other police. Never solved.

2. **Graeme Russell Jensen** shot dead in his car on October 11, 1988. There were allegations that police subsequently planted a gun in his car. Eight officers were eventually charged with various offences relating to the death and its investigation; but the prosecution was seriously flawed, evidence missing, and they were acquitted.

3. **Wade Smith** shot dead in his car by police on April 6, 1998. The officers claimed he had fired at them, but this was not proved. Locals believed the killing could be a payback for the shooting of a police officer in the area two years earlier.

Other Victorian mystery deaths

4. **Jennifer Tanner**, shot twice in the head with her husband's rifle in 1984. Police treated the death as suicide despite the near-impossibility of her having inflicted all her wounds herself. After much family and public pressure, her husband's brother, **Denis Tanner**, was found by the coroner of the second inquest to be the person who had shot her. However the DPP said in 1999 that Tanner would not be charged. The death of transsexual **Adele Bailey**, also allegedly connected to Tanner, remains "open" according to her inquest in 1999.

5. Melbourne underworld figure **Mark Moran**, shot dead in an unsolved execution-style murder, was said on the "4 Corners" program of March 8 this year to have received large quantities of drugs through the Victoria Police drug squad's unauthorised Controlled Chemical Deliveries program. The presence of his young children at his killing significantly breached the normal code of underworld shootings.

6. **Jane Thurgood-Dove**, shot dead in front of her three children in her driveway on November 6, 1997. A

Victoria Police senior constable was the prime suspect, allegedly having “an obsession” with the married victim, and having hired two hitmen to do the job when she refused to leave her husband. Potential witnesses received death threats. The case remains unsolved.

7. Decomposing body of **John William Kovacs** found hanging over a pump pit in the Melbourne underground on March 17, 1994, his arms tied behind his back with a dog chain. He was known to have blown the whistle on a police officer with criminal connections, and to have subsequently received death threats from police. Documents went missing; the coroner made a finding of suicide, despite the threats, and the extreme physical difficulty of performing such a feat.

8. In March 1996, **Stephen Oh** and **Jeremy Wong** were handcuffed and shot dead in an apartment in Spring St, Melbourne. They had gambling and drug trade connections, and had been recruited by Victoria/AF Police to inform on a Malaysian drug syndicate. There were suggestions that corrupt Victoria drug police had informed the syndicate that the victims were about to blow the whistle. Case unsolved.

9. **Jenny McNabb**, her death possibly related to the notorious Maryborough rapes, in which there were up to 50 women raped by police (13 of them) over several years. Jenny was found dead in April 1998, having choked on her own vomit. The coroner decided she'd died of natural causes. She had allegedly initially engaged in consensual sex with Maryborough police, and featured in photos of sexual activity with on-duty officers on police premises. It's alleged that police gang-raped her after she refused further sex and that she received death threats after she complained about the attack.

10. **Cassandra Ogden**, a Melbourne university graduate, found dead in bed in a National Crime Authority safe house with a plastic bag over her head, a rope around her neck and a note beside her bed. She died just a few hours away from a quasi judicial hearing by the NCA into a drug

importation racket operated by her close friend and former high school maths teacher, **Peter Cross**, the son of a former NSW Supreme Court judge, and, according to a written statement by Cross, the former Melbourne Lord Mayor, **Irvin Rockman**. Cassandra Ogden's death (despite the rope around her neck) was ruled a suicide. Peter Cross subsequently refused to give evidence against Irvin Rockman, and the head of the NCA's investigative group, **Chief Superintendent Carl Mengler**, wrote a reference in support of Cross that resulted in him serving only five months in jail.

SOUTH AUSTRALIA

1. David Millard

Millard, a farmer, was charged by SA police in 1986 with cultivation of a large cannabis crop, and was subsequently an NCA witness in relation to others involved in the cultivation. He fell in front of a goods train at 11.30pm on September 7, 1987. Following two post mortem examinations, police attributed the death to suicide. A Victoria police spokesperson said no further details would be released.

2. George Octapodellis

Octapodellis was an NCA witness whose evidence resulted in the conviction and imprisonment of Operation Noah chief, Inspector **Barry Moyse**, in 1988, the arrest of 11 others and the investigation of a further 56 including the SA Attorney-General, **Chris Sumner**, and a number of senior police. Octapodellis was found dead in Sydney from a lethal injection of heroin. The then Minister for Justice, Senator Michael Tate, stated in the Senate a few days later that the heroin over-dose was self administered. The Crown's case against all persons who had been charged, or were under investigation, collapsed.

3. Tony Grosser

In 1991, Grosser gave SA police, Qld police, the AFP and the NCA details of allegations of his uncle, Military Police officer **Robert Grosser's** involvement with the **Romeo mafia** family in the importation of drugs on military aircraft through the RAAF base at Amberley in Queensland. He gave

details of the importation of container loads of cannabis via the port of Brisbane by the Romeo family; details of the involvement of AFP officers flying light aircraft in and out of North Queensland trading weapons for cannabis; details of the involvement in murder of a former SA policeman turned SA politician; and a warning of a planned mafia organised bombing in SA prior to the bomb blast that killed NCA police officer **Geoff Bowen**, the officer responsible for the arrest of **Bruno “The Fox” Romeo**. Tony Grosser subsequently received death threats, and in 1994 there was a police raid and siege of his property in Nuripoota. A member of the SA Star Force shot him in the back of the head, and in turn was seriously wounded. Grosser survived and is now serving a term of 18 years for the attempted murder of the Star Force officer who shot him, notwithstanding forensic evidence that the officer was shot by a police colleague - not by Grosser.

4. Geoffrey Bowen

Bowen was a South Australian NCA officer who was involved in the successful prosecution in Western Australia of a member of the Romeo mafia family for drug trafficking in April 1993. **Tony Grosser** (see above) tried to warn police and the NCA of talk of plans for a bomb attack on “the piggies” by mafia-connected criminals, but nothing was done. Bowen was killed by a letter-bomb in the Adelaide NCA office a year later. There followed the rapid (and wrongful) arrest of **Dominic Perre**, who was later released. The case is still unsolved; the inquest on Bowen heard no evidence on the Romeo connection.

WESTERN AUSTRALIA

1. Andrew Petrelis

Petrelis, a young drug trade informant, applied for and was given police protection and relocation under a new identity to Queensland in May 1995, to ensure his safety and ability to testify in a drug prosecution later. His new identity was accessed by police officers **Murray John Shadgett** and **Kevin Davy** just before he left for Queensland, and he died of a heroin overdose there on September 11, 1995. He had told his parents before leaving

Western Australia that if he were found dead, he would not have killed himself, but would have been given the choice of a needle or bullet. The death, and the matter of unauthorised police officers accessing his new identity, have been the subject of a number of investigations, most recently by the WA Police Royal Commission, but the case remains unresolved. Shadgett, who had had a number of problems with unauthorised access to police records, retired on medical grounds in 2000.

2. Don Hancock and the Gypsy

Joker leader

Senior WA police officer Don Hancock featured prominently in the Mickleberg case, in which two brothers were allegedly framed for a bullion theft in 1982. (See Avon Lovell's book *The Mickleberg Stitch* for details. Avon's allegations were subsequently confirmed by the police officer, Lewandowski, who helped Hancock do the stitch; but the book was effectively banned in WA for many years; every police officer contributing financially to the ban by money collected from their pay by the police union.)

Hancock, a registered gold dealer, owned a number of properties, including the pub, in the town where he retired after reaching the rank of Superintendent in charge of the Criminal Investigation Branch. In early 2000 there was an altercation in the pub with some Gypsy Jokers, who were evicted by Hancock and a relative. Later that night the Joker leader was shot dead at the Jokers' campsite by an unknown person.

The Jokers appear to have assumed the killer was Hancock. A number of his properties were serially blown up in the next few months, then some time later Hancock himself was killed by a car bomb. The Joker eventually charged with the murder of Hancock and his (male) passenger was acquitted last year; the original shooting has never been solved.

QUEENSLAND

Pasquale Barbaro — Mafia II Principe, reputed to be one of the six most powerful men in the mafia in Australia, with control over the ACT,

NSW and Victorian regions. Barbaro offered to give the NCA details of several unsolved murders, in exchange for money. After a failed attempt on his life in April 1989, he refused to discuss the matter further with police except to say that if he talked he could "make some policeman very famous and very dead." On March 18, 1990, Barbaro was stabbed in the shoulder and then killed with a single shot to the chest.

TASMANIA

1. Joseph Gilewicz

Gilewicz, shot by police 1991, was the subject of a Commission of Inquiry in 2000, which left a number of matters unresolved, including whether pressure over alleged, unrelated offences, had been applied to a key police witness to change his evidence.

2. Ronald Frederick Jarvis

An associate of Gilewicz, Jarvis was also shot, and it was widely rumoured that the police were involved, including one of the most senior, high-ranking officers in the Tasmania Police. The case remains unsolved.

3. Plumstead family

Mrs Plumstead, her de facto partner and two children were killed in a house fire in Dodges Ferry on December 29, 1996. Her husband was in jail at the time, and he allegedly "had a lot on a lot of people" including police. Volunteer fire brigade officers who attended, including a police fire investigation officer, thought the fire had been deliberately lit. The fire investigation officer was transferred out of that police department when he insisted the fatal fire should be investigated. It never was.

Report: the second week of the inquest into the death of Gary Lee-Rogers

Jean Lennane, WBA President
April 2004

The inquest resumed on Monday 19th April 2004, and closed at lunchtime on Friday 23rd. Again it hasn't finished, and is set down for a further week

from Monday 18th October, in Queanbeyan. Don't bet on its finishing then either, but we can hope.

It was a *very* interesting week, though pretty stressful. Sitting all day, day after day, in a windowless air-conditioned courtroom, concentrating, taking notes, and juggling vast and increasing amounts of paper (environmentalists really need to look at the number of trees killed daily to support the legal system) is not much fun. It was made worse by brief glimpses of the perfect autumn weather we were all missing outside.

Conduct of the second week

There were significant changes in the way the second week ran, compared with the first week last November. We had asked the Coroner, through the Crown Solicitor's office, if Whistleblowers Australia (WBA) could become a party to the proceedings. She had, understandably, been reluctant to allow that at this late stage, but very kindly offered me the opportunity to question the witnesses anyway, after the four barristers (counsel assisting, and those representing the NSW Police, the Australian Federal Police, and Gary's family) had done their bit. This achieved the same result, probably a lot more efficiently. Not that I had all that many questions to ask, as Mr Saidi, assisting the coroner, seemed to be doing an excellent job of covering most angles this time; the family's barrister covered most of the rest.

We also established at the end that WBA (specifically me and police whistleblower ex-detective Debbie Locke) can have access to the exhibits at Glebe; that we will again be given a copy of the transcript; that we will get access to the records of Gary's mobile phone, and investigations into whether it has indeed been destroyed or is still being used (promised for the hearing week, but delayed for some reason); that Bob May's statutory declaration on a crucial email from Gary will be included; and that I can give evidence on relevant aspects of whistleblowing.

So far, so good; but read on.

Witnesses in the second week

In my opinion these were considerably more relevant than in the first week, in that there were only three 'character

assassins' out of a total of eighteen or so; and one, called at our instigation, who gave a very positive and impressive character reference; plus Christina Schwerin, who appeared on Friday, and managed to get Gary's work qualifications and experience properly on the record at last.

Most of the other witnesses were highly relevant to the question of Gary's physical and mental health near the time he died — rather more helpful I would have thought in elucidating 'the cause and manner of death' than two rivals with Gary for a woman's affections who gave evidence 'against' him. One of them gave evidence about alleged events in 1988! This included a lot about how Gary stalked the girlfriend the witness later married, saying the affair with Gary was only on his side. However thanks to Christina Schwerin's liaising with Gary's mother, the family's barrister was able to produce a passionate love-letter from the woman to Gary, which would seem to disprove that claim at least. But the relevance of it all escapes me, even if it could ever be possible for any lover to give objective evidence about a rival.

Suicide?

The relevant witnesses between them painted a distressing picture of a very sick man discharged prematurely from hospital and pretty much left to die. The mental health team, as is sadly now usual in NSW, seem to have spent far more time talking about Gary than with him; as is also usual, the only helpful person who actually saw him after his discharge on 21 September 2002 was a police officer sent round two days later to check on his welfare by the mental health team. When he got no response at first, he had a look to see where he could break in if he couldn't raise Gary, in stark contrast to the mental health worker who finally got round to visiting after Gary was dead and, when he couldn't raise him, just put his card in the door and went away.

In his statement, Mr Pratt had said he couldn't remember the date he had visited, but did so "on the Thursday or Friday, the exact day is recorded in the mental health notes."

The mental health notes in fact record the date as 30th September,

which was a Monday, nine days after Gary's discharge on Saturday 21st, and when he had probably been dead at least three days. The coroner asked some very pointed questions, about 'But what support did he *have*?', suggesting that a home visit to check that his surroundings and he himself were OK, given that he'd been very anxious about leaving hospital; that he had food in the fridge and seemed to be eating it, could have been a good idea; and why the police were sent out to check on him after a phone-call from a concerned friend on 23rd September rather than the mental health team going. Answer — it's policy, OH&S, I wouldn't like to go on my own. Coroner — but you'd said he was safe to go home!

Despite the lack of care from the mental health team, and Gary's depression and suicide attempts (all of which are more accurately described as suicidal gestures), the consensus of nearly every witness, including the very professional and impressive psychological profiler, was that suicide is unlikely to have been the cause of death.

I agree.

Accident or natural causes?

There are now however a number of possibilities for death from natural causes. Gary's final admission to Queanbeyan Hospital from 5-21 September, although precipitated by a suicidal gesture, was complicated by his recurrent pancreatitis; he had his gallbladder removed as part of the treatment for that on 17 September. His treating doctor had erroneously said in his statement that Gary was no longer on insulin when he was discharged, but in fact he was, though his need for insulin was expected to decrease as his pancreatitis improved. He had been on insulin, off and on, only since June 2002, i.e. 3-4 months, and had an admission to hospital in July when his requirement abruptly decreased when his pancreatic function improved, leading to a life-threatening drop in blood sugar levels.

He was still depressed when discharged, and quite possibly not eating properly or regularly, or able to monitor what could have been widely fluctuating needs for insulin; also possibly, in a state of physical pain and

despair, bingeing on alcohol (he was normally teetotal, but had occasional such episodes) in reckless disregard of the danger to his pancreatitis and blood sugar stability. This suggests two definite possibilities that could have caused his death, possibly assisted by alcohol: *diabetic coma*, or *hypoglycaemic coma* (high or low blood sugar).

Gary was also said to have had very occasional epileptic seizures, from around 1998. This seems never to have been fully investigated (it could have been related to his sarcoidosis — see below). He was not at any stage prescribed anti-convulsants. This creates another possibility, albeit not very likely — *suffocation during a seizure*.

Gary also had a relatively uncommon condition, sarcoidosis, which mainly affected his lungs, but also probably caused his pancreatitis. (The autopsy missed it altogether — did the pathologist look?) It is of unknown cause, affects internal organs with areas of inflammation, and is treated with corticosteroids, usually prednisolone. Gary had been on this for a while a few years earlier, being re-started on it several months before his death, in doses of up to 25mg/day. This raises a fourth possibility, *adrenal crisis*, which occurs when someone whose adrenal glands are no longer producing the cortisol we need to keep alive, because they've been on a high enough dose of artificial steroids for long enough to suppress their own production, stops taking them. Gary in his state of poor physical and mental health could indeed have done this, but it's unlikely the amount of prednisone he'd been on would have produced that effect.

Unless it turns out to be homicide, we are unlikely ever to know for sure whether or not any of the above actually killed Gary — one of the problems exacerbated by his body not being found for several days after death. It does however raise the question — what on earth were they thinking of, to discharge someone so sick, to live in a flat on his own, with no help or support for his life-threatening, mutually exacerbating, physical and mental problems? (His doctor could not remember whether pressure on beds was a factor in the decision to

discharge him, but said in Queanbeyan that is very often the case.)

Homicide?

This is the only way we will ever know what happened — if it was homicide, and if the perpetrator has a crisis of conscience, or someone in the know blows the whistle. An investigative solution now seems unlikely, in view of “The deficiencies identified in this investigation ... results of a failure to follow sound investigative practices, investigation management, inexperience on the part of the investigator, Crime Manager and lack of communication.” (from 8-page statement of DI Peter Bailey, Crime Manager for the Monaro Local Area Command, appointed 17 February 2003.)

I’ve written previously about the unfortunate mis-filing and destruction of Gary’s mobile phone, potentially crucial evidence of the threats and other harassment Gary claimed he was experiencing, also of course of who and where they were coming from. There seems to be a problem getting full records from the telephone company, which could also show a lot, and evidence likewise that the phone is no longer in use.

Debbie Locke and I managed to get a look at some of the exhibits, though with some difficulty. A thorough look without time and other pressures will be most valuable. I’m sure the Coroner’s court takes better care of its exhibits than Queanbeyan police station used to do. (Those procedures, as well as investigations, have according to evidence from senior officers now been sorted out.)

Photos of the death scene do not look like suicide — or a natural death. There are also a few possible anomalies, such as what appear to be blood-stained fingerprints on the blade of the knife found beside the bed, although the knife was said to have no prints on it when examined for them in Sydney — an odd finding anyway, as Gary must have handled the knife if no-one else did. There also appear to be bloodstained fingerprints on the pillowcase behind his head — presumably eventually taken away, unexamined, to be washed by Gary’s friend who cleaned up the flat some weeks after his death.

The overall impression of the investigation thus far, and of the evidence given to the inquest, is of a lack of attention to any evidence that could shed light on whether there were any suspicious circumstances in the cause of Gary’s death.

We didn’t discover till well into the week’s hearing that the police officer in charge of sorting out the witnesses for the inquest is none other than John Moore. He was an inexperienced detective constable at the time he was, most unfairly, put in charge of this politically highly sensitive investigation. He is now a uniformed sergeant. It seems a most unfortunate conflict of interests, to have the person responsible for what is acknowledged to have been a deficient investigation involved in any way in sorting out what is to be put to the Coroner. And before anyone claims that I am saying or implying that Moore is corrupt, I’m not. What I’m suggesting is that being human, and having in his investigation eliminated homicide, he might have an unconscious bias against evidence that could prove he was wrong. This would apply to anyone in such a situation.

WBA’s alleged misconduct

Mr Saidi, having, with Mr Shevlin, found WBA’s website, told me he will be waiting with keen anticipation for this report to appear there; adding that he doesn’t want to be defamed again. As I pointed out to him, criticism is not defamation, and it would be most unfortunate if those serving our community through their work in the courts were to feel they have to be above being criticised. He and Mr Shevlin (S/S) certainly didn’t seem to feel any inhibitions in criticising us, for a series of alleged instances of misconduct during the hearing — up to 2 per day, from Day 2 onwards. These were:

1. Sitting on relevant evidence, then springing it on them. This would indeed be wrong but, as we were able to show, the items in question were all included as attachments to Christina Schwerin’s statutory declaration, given to them before the inquest opened in November.

2. Talking to John Moore, as we understood Mr Saidi in a longish lecture the night before about observing and respecting protocol, had

told us was the appropriate way to go about sorting out witnesses. Turned out we were not supposed to talk to anybody in what apparently is an area in the court set aside exclusively for police. Why Mr Saidi had suggested we should talk to Moore remains a mystery. Perhaps we misunderstood?

3. My report on the hearing in November, as published in *The Whistle* and the website. Someone showed that to the Coroner, who became unhappy about aspersions cast on S/S as being a slur on her own integrity, which was far from my intention. My opinion of the Coroner and the job she’s doing was, and remains, very favourable. She has certainly been extremely helpful to WBA.

4. Looking at exhibits without first going through S/S to get approval from the Coroner. We had understood the procedure, since the Coroner had given us permission to access the exhibits, was to do so through her assistant, who was to be present while we looked at them. We were doing this when S/S took exception to it. The Coroner subsequently re-stated our previous understanding.

5. The Coroner objected to the inclusion of a case she had found to be suicide, in our list of ‘Deaths of Convenience’. The objection is well-founded, and I have removed that case from our list.

6. The most heinous instance of alleged misconduct arose from the mistaken belief that we had taped a conversation outside the court when trying to mend some interpersonal fences. Nothing worth taping, I would have thought, and it would of course have been completely pointless; but the possibility seemed to cause a great deal of angst.

I’m not claiming for a minute that S/S intended it as such, but from the receiving end the series of accusations felt rather like bullying, which a typically paranoid whistleblower might think was aimed at discouraging us from participating. Not being paranoid (yet!) I’m more inclined to think it arose from our presence being disturbing, distracting and disruptive to the normal routine, despite our best intentions and efforts to fit in. Hopefully we’ll all be more comfortable with it all, come October.

Whistleblowers Australia contacts

ACT contact: Peter Bennett, phone 02 6254 1850, fax 02 6254 3755, whistleblowers@iprimus.com.au; Mary Lander, phone 0419 658 308; mary.wba@ozemail.com.au

New South Wales

“Caring & Sharing” meetings We listen to your story, provide feedback and possibly guidance for your next few steps. Held every Tuesday night 7:30 p.m., Presbyterian Church Hall, 7-A Campbell St., Balmain 2041.

General meetings are held in the Church Hall on the first Sunday in the month commencing at 1:30 pm. (Please confirm before attending.) The July general meeting is the AGM.

Contact: Cynthia Kardell, phone/fax 02 9484 6895; messages phone 02 9810 9468; ckardell@iprimus.com.au

Website: <http://www.whistleblowers.org.au/>

Goulburn region: Rob Cumming, 0428 483 155.

Wollongong: Brian Martin, 02 4221 3763.

Website: <http://www.uow.edu.au/arts/sts/bmartin/dissent/>

Queensland contacts: Feliks Perera, phone/fax 07 5448 8218; Greg McMahon, 07 3378 7232 (a/h) [also Whistleblowers Action Group contact]

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

Victoria

Meetings 2.00pm the first Sunday of each month, 10 Gardenia Street, Frankston North.

Contacts: Christina Schwerin, 03 5144 3007, christina_schwerin@yahoo.com; Mervin Vogt, 03-9786 5308, mervyn@teksupport.net.au.

Whistle

Brian Martin, editor, bmartin@uow.edu.au, 02 4221 3763, 02 4228 7860; Don Eldridge, Isla MacGregor, Kim Sawyer, associate editors. Thanks for Cynthia Kardell and Patricia Young for proofreading this issue.

Whistleblowers Australia membership

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

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

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

Send memberships and subscriptions to Feliks Perera, National Treasurer, 1/5 Wayne Ave, Marooala Qld 4564. Phone/Fax 07 5448 8218.

Ray Hoser's letter to *The Bulletin*

Nine years I ago I published a book detailing corruption in the Victoria Police. I was jailed a year later.

Five years ago I published the two books, *Victoria Police Corruption* and *Victoria Police Corruption - 2*. Totalling 1536 pages, these books were best-sellers before the Bracks government ordered the books seized from shops, threatened to jail booksellers and charged and convicted me of contempt of court. The alleged contempt was to bring the police and legal system into disrepute.

Congratulations to your magazine for finally discovering the reality of police corruption in Victoria.

My claims are vindicated at last.

Hopefully your journalists will follow the investigative path I went along five years earlier and find that the corruption goes beyond the drug dealing cops and on to their political masters in the two major political parties, including the party hacks they appoint to key judicial posts who aid and abet the corrupt police in return for protection and illegal favours.

The rot is systemic and extensive and won't be solved by a few soothing media releases by Steve Bracks and his cronies.

My next book detailing yet more police and political corruption in Victoria is due out shortly.

That is unless I get shot dead in the meantime.

Yours Faithfully
Raymond Hoser
488 Park Road
Park Orchards, Victoria, 3114
Phone: 03 9812 33 22
Mobile 0412 777 211