

"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



"I'm sensing confidence, boldness, and moral sensibility. You're not going to turn out to be a whistleblower, are you?"

Payout victory for Patel nurse

Hedley Thomas

The Australian, 9 March 2012, p. 5

THE whistleblowing nurse who suffered severe stress and was ostracised for exposing killer surgeon Jayant Patel has finally been acknowledged by the Queensland government with a confidential settlement.

Toni Hoffman, the manager of the intensive care unit at Bundaberg Base Hospital, and her lawyers from Maurice Blackburn have agreed the terms of a payout with her employer, Queensland Health.

Ms Hoffman said last night that she was “very relieved” the matter had been resolved. She said she looked forward to continuing with her nursing at the hospital about 400km north of Brisbane.

Her legal action originally sought more than \$400,000, but the final figure agreed yesterday was not disclosed.

The settlement came after mediation by former High Court judge Ian Callinan QC and a public plea to Premier Anna Bligh by Ms Hoffman, who previously told *The Australian* she had been treated “like a leper” by Queensland Health for highlighting dangerous clinical care.

Her lawyer, Peter Koutsoukis, said Ms Hoffman had “suffered financially, professionally and personally over the past few years and this settlement would provide some financial security”.

“Toni is a hero to Queenslanders and she deserves to have some time to recover after many years of stress and poor health caused by this scandal,” Mr Koutsoukis said.

Patel was jailed in 2010 for manslaughter and grievous bodily harm arising from his two years as director of surgery to 2005. Ms Hoffman repeatedly warned her managers during Patel’s time at the hospital. In desperation she confided in a journalist.

The head of a royal commission-style inquiry, former Supreme Court judge Geoff Davies QC, found that her

care, passion and courage were key in bringing to light a scandal that led to at least 13 deaths and injuries to dozens of patients.

Queensland Health was not aware when it employed Patel that he had been struck-off in the US following issues of gross negligence and that his past record had not been checked.



Toni Hoffman

Toni happy again after Patel trauma

Sunshine Coast Daily, 11 March 2012

FOR seven years, Bundaberg nurse Toni Hoffman has endured the consequences of blowing the whistle on disgraced surgeon Jayant Patel.

Unable to break free, she was swept along with the current, through grueling inquiries, court cases and, finally, her own fight for compensation.

The Bundaberg Hospital intensive care nursing unit manager finally can return to the quiet life after receiving a compensation payout from Queensland Health this week.

The settlement figure was undisclosed, but media reports last December suggested Ms Hoffman had launched a compensation claim worth up to \$400,000.

“I’m just looking forward to getting home to my animals and probably having a coffee with friends over the

weekend,” Ms Hoffman said from her parents’ Sunshine Coast home on Friday.

She visited the serene Mooloolah property only briefly, long enough to catch up with her mum and dad, who have suffered through the ordeal with her.

Her mum Marie told the *Daily* that Toni seemed “happy again.”

The senior nurse told the *Daily*’s sister paper, the *Bundaberg News-Mail*, she would probably take a holiday soon but was proud to continue working at the hospital’s intensive care unit.

“The doctors and nurses there are all part of a tight-knit team,” she said.

It was not just her colleagues behind her desire to continue working at the hospital.

“It’s the fact that you can make a difference every day,” she said.

But little was done to help her through the tough time after she had made Patel’s mistakes public.

“It’s been like being on a roller-coaster,” she said.

“First it was trying to get someone to listen, then the commission, then the charges and extradition, then the committal before, finally, the trial.”

Ms Hoffman said she hoped Queensland Health and other government departments learnt from how she had been treated.

“If someone decides to be a whistleblower, it’s not something they take lightly,” she said. “They need a lot of support to see them through the process to the end.”

She said she still felt let down after having to use all her annual leave to watch Patel’s trial after she had given evidence.

But the compensation she received was vindication.

“I think that it recognises that I was disadvantaged by having to be a whistleblower,” she said.

Wide Bay Health Service District director of nursing and midwifery services Debbie Carroll said staff at the hospital were pleased Ms Hoffman could have some closure after the settlement.

"Toni Hoffman is a highly valued member of the clinical team here at Bundaberg Hospital," she said.

"We will work closely with Toni to ensure she has the continued support she needs."

Whistleblowers in fear of witchhunts

Jeremy Pierce and Greg Stolz
The Courier-Mail
17 February 2012, p. 10



A CULTURE of fear among police whistleblowers has emerged as Queensland's top cop vowed to hunt the source of an alleged police bashing video.

Police Commissioner Bob Atkinson has pledged a "full, thorough and exhaustive" investigation into the alleged bashing of 21-year-old chef Noa Begic in the bowels of the Surfers Paradise police station. Mr Begic had his hands cuffed behind his back when officers were seen kneeling and punching him.

But Mr Atkinson has also flagged an inquiry into how *The Courier-Mail* obtained the CCTV footage of Mr Begic's bashing before breaking the story on Wednesday.

The pursuit follows news that Constable Bree Sonter was asked to explain her role in blowing the whistle on former colleague Benjamin Price,

who was jailed after he assaulted prisoners.

The Courier-Mail understands that Constable Sonter, labelled "heroic" by the Crime and Misconduct Commission when she was the only officer to report Price, was under investigation for why she did not allegedly alert authorities earlier about his behaviour.

The Price court case and subsequent stories in *The Courier-Mail* raised questions about how slowly police reacted to the initial report.

Operation Tesco, a 2010 CMC inquiry into Gold Coast police misconduct, heard how a Burleigh Heads CIB whistleblower was given a can of dog food as a "secret Santa" gift by a colleague.

The present, handed out at an office Christmas party, was given after he was suspected of "dogging" a workmate over disciplinary matters.



Last November, an inspector from the Ethical Standards Command, the internal affairs division which investigates allegations of police misconduct, was stood down after he left a can of dog food on a colleague's desk allegedly to reprimand him for being a "snitch".

Mr Atkinson said he did not believe the release of the Surfers Paradise video was a "whistleblower act" as an internal investigation into the incident was already under way.

"There's nothing there that is exposing or uncovering anything," he said.

But leading criminal lawyer Bill Potts said police would not have taken

the case as seriously without the media exposure.

"But for brave whistleblowers and journalists revealing these sorts of things, this type of behaviour would not be exposed in the significant way it has been," Mr Potts said.

Queensland Civil Liberties Council vice-president Terry O'Gorman said Mr Atkinson should be more concerned with the behaviour in the video than in how it went public.

"Rather than conducting a witch-hunt into how a video embarrassing the QPS was leaked to the media, Mr Atkinson should be conducting his own inquiry into Gold Coast Police Command, who apparently did nothing about the video or the police involved in the alleged bashing until the video was publicly released," Mr Potts said.

Culture of fear holds back whistleblowers

Des Houghton
Courier-Mail, 27 January 2012

THE barrister whose complaint triggered a criminal investigation into the University of Queensland believes there is a "culture of fear" in the state preventing people from speaking out against misconduct.

Greg Williams said he believed there was a lack of accountability and transparency across government departments, the university and the Crime and Misconduct Commission.

Mr Williams said he was congratulated by many people from the university for his stand but surprised that few were game to go public.

"There is a culture of fear at the university that prevents people speaking out," he said.

Mr Williams spoke after the CMC launched a major criminal investigation into the University of Queensland nepotism scandal that claimed the scalps of vice-chancellor Paul Greenfield and his deputy, Michael Keniger, for allowing a "close relative" to be admitted to the medicine course without meeting all the requirements.

Mr Williams said he acted after feeling ashamed his old university was involved in a cover-up. "It may sound corny but I have a strong sense of justice," he said.

He was aware of the risks of whistleblowing after reporting misconduct in a State Government department in 1995.

Mr Williams said his reports to the Criminal Justice Commission were not fully investigated.

The security breach Defence tried to hide

Des Houghton

Courier-Mail, 3 March 2012, p. 48

“Evidence provided to the inquiry confirmed that the substance of the allegations was true: incorrect data had been inserted in the vetting process ... This corrupted data had then entered the Australian Security Intelligence Organisation and was used for security assessments”

THE historic Victoria Barracks army establishment in Brisbane’s Petrie Tce is at the centre of a national security scandal involving fabricated clearance documents used by the Australian Security Intelligence Organisation.

It seems no one knows for sure how deeply our national security has been compromised.

We do know that ASIO was duped by faked security checks conducted at the base. And we do know the Defence Department lied about it and tried to cover it up. A federal inquiry said so.

It found thousands of high-level security assessments in the Defence Department were compromised by incorrect data subsequently used by ASIO to issue official clearances of individuals working in sensitive areas.

The background character checks involved individuals employed as private security guards working on Australian military bases, senior public servants with access to sensitive information, staff in our overseas embassies and airline air marshals.

Who else was vetted we don’t know. Some of the subjects had top-secret classifications.

The breaches would probably have gone unnoticed had it not been for the courage of five Brisbane civilians who blew the whistle.

Within weeks of starting at the base in March 2010 they sensed something was terribly wrong.

“We feared straight away that national security was being breached,” says whistleblower Monica Bennett-Ryan. “Five of us went to the (Federal) Ombudsman but didn’t get anywhere.

“They put it in the too-hard basket. We were given the impression that no one wins against Defence; they are too big and too powerful.”

She says there was a bullying culture at the base and threats not to speak out.

“We were forbidden to talk to Defence force staff until we were spoken to first,” she says. “We were not allowed to complain or ask questions. If you broke the rules the penalty was instant dismissal. We were disposable.”

The group worked not for Defence but rather for the Australian Government Security Vetting Agency which demanded more checks than they could possibly deliver.

They were told to “be creative” making up past histories and addresses for subjects being vetted.

“I was shocked on the second day of my training at the base,” says Bennett-Ryan. “I was rocked to my socks.”

The group took their grievances to their then local MHR Brett Raguse, who wrote to Defence.

Even this was risky, they say, because they were subject to the Secrecy Act.

When a Defence investigation stalled, the inquiry was taken over by Inspector-General of Intelligence and Security, Vivienne Thom. Her report tabled in Federal Parliament earlier this month was devastating.

“Evidence provided to the inquiry confirmed that the substance of the allegations was true: incorrect data had been inserted in the vetting process,” Thom reported.

She said corrupt data had been handed to ASIO and that it was used for security assessments, and that warning signs were not heeded by the Defence Security Authority.

“The ASIO security assessment is one part of a broader assessment of a person’s suitability to hold a clearance,” she said.

She made 13 recommendations.

Different levels of clearance require different levels of vetting.

Some checks go back 10 years covering employment, education,

travel, residential addresses, passports, marriage certificates, financial records and police records.

A whole-of-life assessment was required for a so-called Top Secret Positive Vet.

Staff under pressure to provide 10 clearances a day simply filled in the blanks when they could not meet the targets.

“We were told it was not important and to just fill it in,” says Bennett-Ryan.

“They said ASIO would check it all again anyway.”

More than 5000 top secret clearances are being checked by Defence and ASIO. It could take years.

Janice Weightman, another whistleblower, says the case had shaken her belief in the system.

“Now I have very little faith in the Defence Department and the Labor Government, and especially Defence Minister Stephen Smith.”



Bullying rampant at barracks

DESPITE a moral victory in the security vetting scandal, Monica Bennett-Ryan says the issue of bullying at Victoria Barracks remains unresolved.

“The bullying has never been looked at despite complaints,” she says. “Defence lied and lied and no one is making them accountable. We were treated appallingly. Half the Defence force personnel were nice to us, the other half brutally awful.

“If you were sick or had to go to a funeral you faced the sack. There was physical and psychological abuse. One very unwell man was told to bring in his medical certificate. He hobbled in on crutches, it was pathetic.

“You lost your rights when you went through those gates.

“A barrister said their behaviour was unlawful and we had a case to sue, but we said no, we just want the bullying to stop. Exposure was what we wanted.”

Court awards Amcor whistleblower \$1.4m

Blair Speedy

The Australian, 21 March 2012, p. 31

THE Supreme Court of Victoria has awarded almost \$1.4 million in severance pay to a former Amcor executive whose covert recordings blew the lid on a multi-billion-dollar price-fixing deal with rival packaging group Visy.

The recordings, made by former Amcor cardboard box boss Jim Hodgson as he discussed the illegal cardboard box cartel with fellow Amcor executives and Visy chief Harry Debney, ultimately led to record fines of \$36m being imposed in 2007 against Visy's owner, the late billionaire Richard Pratt.

The case is expected to be the final legal proceeding stemming from the cartel, which Federal Court judge Peter Heerey described as the most serious price-fixing case in Australian legal history and one which the ubiquity of cardboard boxes had made a victim of "every man, woman and child in Australia".

In a judgment handed down in Melbourne yesterday, Victorian Supreme Court Justice Peter Vickery ruled that a structural reorganisation by Amcor in 2004 did not give the company grounds to dismiss Hodgson, who at the time was the head of the cardboard box division.

Justice Vickery awarded Hodgson \$917,695, including payment in lieu of notice and a bonus of \$160,000.



Jim Hodgson

In addition, he ruled Hodgson was eligible for interest on his entitlements dating back to 2004, which is expected to bring the payout to around \$1.37m.

In a counter-claim, Amcor had alleged that while still employed by the company, Hodgson and a number of his senior executives had conspired to sell off two of the company's subsid-

ary businesses to shelf companies they secretly controlled.

Justice Vickery ruled that while the sales did take place and the executives had breached their duties to their employer by hiding their involvement from Amcor, the prices paid for the businesses were not below market value — as alleged by the company — and so no compensation was required.

During proceedings in June last year, counsel for Mr Hodgson, Charles Gunst QC, told the court Amcor's case was "a giant artificial construct actuated by spite to punish a whistleblower".

Mr Hodgson, who had worked for Amcor for 38 years, told the court he had secretly made the recordings "so that there would be some evidence of the arrangements between Amcor and Visy and the fact that they had been approved at, and were known to, the highest levels within each company".

"My concern at the time was that, without such evidence, Amcor would later seek to contend that I had instigated or been responsible for these arrangements," he told the court.

However, counsel for Amcor argued that Hodgson hadn't taken the recordings to the authorities and so could not be seen as a whistleblower, and that his engagement in the cartel and secret asset sales justified the company's decision to dismiss him without notice.

Justice Vickery said he was satisfied that Hodgson's involvement in the cartel was undertaken "with the full knowledge and indeed the encouragement of Amcor, principally through Hodgson's immediate superior, Brown".

Peter Brown was managing director of Amcor Australasia until his retirement in September 2003.

Amcor only became aware of the recordings after Hodgson had left the company, when they were delivered to Amcor's lawyers as part of the discovery process in a case it had brought against Hodgson and a number of other former Amcor executives.

In that case, which began in the Federal Court in November 2004, Amcor sought the return of confidential information it claimed the executives had taken when they left the company in order to aid its competitors.

However, the case was settled the following month after Amcor's law-

yers alerted the company to the content of the recordings, which implicated then-Amcor chief Russell Jones along with Pratt, Mr Debney and Visy Board boss Rod Carroll in the price-fixing ring.

Amcor surrendered the recordings to the Australian Competition & Consumer Commission and agreed to co-operate with the regulator's investigation in return for immunity from prosecution, which extended to all past employees of the company.

In addition, the company in December 2004 sacked Mr Jones, Mr Brown, who was then working for the company as a consultant, and his successor as managing director of Amcor Australasia, Peter Sutton.

In December 2005, the ACCC commenced action in the Federal Court against Visy, Pratt, Debney and Carroll, ultimately settling almost two years later after Pratt admitted knowing about and giving assent to the price-fixing ring, for which he was fined \$36m, while Debney was fined \$1.5m and Carroll \$500,000.

The ACCC then commenced criminal proceedings against Pratt for lying to its investigators when he initially denied knowledge of the cartel — a charge similar to perjury — but that case was dropped on April 27, 2009 due to Pratt's failing health.

He died the following day at the age of 74, after years spent fighting prostate cancer.

A number of customers of both Visy and Amcor have also sued the companies for overcharging them for cardboard boxes — a \$1.9 billion market of which they jointly controlled more than 90 per cent in roughly equal measure.

Amcor last year paid the bulk of a \$95m settlement of a class action brought by small customers of the cartel operators, while in 2009 the two companies jointly paid \$16m to settle a claim from customer Cadbury-Schweppes. Visy and Amcor are understood to have paid out more than \$100m each in compensation to customers since the ACCC's Federal Court victory.

However, for Amcor the bill may be about to get even bigger, with the issue of costs in the Hodgson case yet to be decided.

The court was adjourned until April 16 for a directions hearing regarding the award of costs and any applications to appeal the judgment. Legal sources estimated Amcor's legal bills, which included the services of more than 20 lawyers, could top \$10m, while Mr Hodgson's were expected to be more than \$2m.

The Visy-Amcor cartel

2000: Price-fixing deal struck between Visy CEO Harry Debney and Amcor Australasia MD Peter Brown

May 2001: Visy chairman Richard Pratt meets Amcor CEO Russell Jones to discuss cartel

Sept 2002 – June 2004: Jim Hodgson tapes cartel conversations with Debney, Brown, and Brown's successor Peter Sutton

Oct 1, 2004: Hodgson sacked, lodges claim for \$1.9m in entitlements

Nov 10, 2004: Amcor sues former execs including Hodgson for return of company files

Nov 18, 2004: Hodgson's lawyers give Amcor lawyers the tapes

Nov 22, 2004: Amcor reveals involvement in cartel, seeks immunity from ACCC

Dec 6, 2004: Amcor sacks Jones, Sutton and Brown (consultant since 2003)

Dec 17, 2004: Case against former execs over files settled

Dec 21, 2005: ACCC commences Federal Court action against Visy, Pratt, Debney and Visy Board GM Rod Carroll

Nov 2, 2007: ACCC case settled after Pratt admits knowing of cartel, fined \$36m. Debney fined \$1.5m, Carroll \$500,000

June 20, 2008: ACCC commences criminal proceedings against Pratt for previously denying knowledge of cartel to investigators

April 27, 2009: Case dropped due to Pratt's ill health; Pratt dies next day

July 22, 2009: Visy and Amcor pay \$16m to settle lawsuit from customer Cadbury Schweppes

March 8, 2011: Amcor and Visy pay \$95m to settle class action by small customers

May 16, 2011: Hodgson case commences hearings

March 20, 2012: Hodgson wins \$1.4m payout

The cloak-and-dagger operation to expose cruelty

Alicia Wood with Kira Spucys-Tahar
Sun-Herald, 12 February 2012, p. 13

THE abattoir workers were nervous. They were in a hotel room with a member of Animal Liberation NSW, the organisation they had phoned anonymously with stories of cruelty from inside the Hawkesbury Valley Meat Processors.

The group planned the covert operation together, deciding where the workers would place pinhole cameras inside the abattoir to capture the beatings, the botched stunnings, and the hung animals — writhing in pain as they bled out.

No names were exchanged, the phone numbers of the workers are untraceable, and their addresses remain a secret.

But their video, broadcast first on ABC's Lateline on Thursday, showed sickening cruelty at the hands of abattoir workers, and pushed the state government to announce a review of the operations of all abattoirs in NSW.



Hawkesbury Valley Meat Processors

Hawkesbury Valley Meat Processors, at Wilberforce, was shut down by the Food Authority and has sacked its casual workers.

A statement issued by the company said casual workers were "involved in the incident".

Animal Liberation campaigner Emma Hurst said it was essential that whistleblowers like those who exposed the behaviour at the Wilberforce abattoir were able to remain anonymous.

"There were concerns for their safety ... when they came to us they were aware of the possibility the abattoir could shut down and they could lose their jobs. It shows a lot of

bravery to be willing to take that risk," Ms Hurst said.

The NSW branch secretary of the Australian Meat Industry Employees Union, Charlie Donzow, said there was no excuse for the behaviour depicted in the video and he would be asking the government to make proper training in animal welfare as part of the licensing requirements for all abattoirs.

Hawkesbury Valley Meat Processors is a small operation with about 20 employees and supplies meat to butcher shops in the region. When contacted by *The Sun-Herald*, no butcher would confirm they were selling meat from the closed abattoir.

A NSW Police spokeswoman said while the matter was referred to police the investigation had been handed to the NSW Food Authority.

Nuclear reactor bullying exposed

Leigh Dayton

The Australian, 16 March 2012, p. 3

ADMINISTRATORS at Australia's only nuclear reactor facility used findings of an inaccurate, biased and partially fabricated in-house report as the pretext to suspend — and recommend the dismissal of — two employees who raised health and safety concerns over the mishandling of radioactive materials.

The damning conclusion comes from an investigation by the national workplace regulator, Comcare, into events surrounding an incident in September 2010 in which a third employee was contaminated with radioactive yttrium-90 at the radioisotope production facility (ARI).

The Comcare investigation report, completed last December and obtained by *The Australian*, confirms long-running claims of bullying and cover-ups at the Australian Nuclear Science and Technology Organisation's Lucas Heights facility in Sydney's south.

Comcare found no evidence to support ANSTO's claim that technicians Jason Howe and John Bourke engaged in "serious misconduct" when they sought to have the contamination event investigated. The report also dismissed allegations that Mr Howe and Mr Bourke intended to "damage

the reputation” of ANSTO or had conspired with a former employee to falsify events surrounding the incident.

The circumstances surrounding the contamination incident and ANSTO’s allegations against the men are detailed in the Comcare report submitted by investigator Wayne Gibson on December 19 last year.

They were stood down for making phone calls after Mr Howe witnessed the ARI production supervisor using a paper towel to wipe down the pants of a production technician who had come in contact with yttrium-90, spilt earlier in the day by another technician who did not report the accident.

Rob Blissett, ANSTO general manager of human resources, claimed the organisation did not discourage staff from raising health and safety concerns.

“Safety is our absolute priority. Employees are encouraged, and indeed required, to report all safety issues and no action will ever be taken against employees who do,” he said last night.

He added that ANSTO was implementing Comcare’s recommendations about clarifying reporting procedures, improving investigations and working directly with Comcare.

Mr Howe and Mr Bourke, both staff union representatives, were suspended on October 6, 2010. They returned to work in March last year after signing a Confidential Deed of Agreement — quoted in the Comcare report — that amounts to a tacit admission by ANSTO that the accusations against the pair were overstated. Neither chose to comment on the matter yesterday.

While the report cleared ANSTO of breaching section 76 of the Occupational Health and Safety Act 1991 — which protects employees for raising work, health and safety concerns — it was highly critical of the internal investigation of the contamination incident, which Comcare said was used as the “pretext” to suspend the men. Mr Blissett said: “ANSTO absolutely rejects the reference to ‘pretext’, but will leave it to Comcare to explain the terminology.”

Comcare noted that ANSTO’s investigator was poorly qualified. “By his own admission, the ANSTO internal investigator had no formal training in investigations and was ignorant of the Australian Government

Investigations Standards,” the report stated.

Comcare found the ANSTO investigator failed to interview key witnesses promptly or at all.

The ANSTO investigator did not interview Mr Howe and Mr Bourke until the men complained to their union, which referred the matter to Fair Work Australia, the national workplace relations tribunal. The tribunal ordered ANSTO to suspend the investigation until they were interviewed.

Comcare found the ANSTO investigator’s report “was not impartial or reliable”. He noted as well, that the investigator included fabricated statements and “relied on hearsay and opinion from personnel . . . in the form of emails, conversations and handwritten notes”.

Comcare concluded that the men had been denied procedural justice, and that the ANSTO investigation’s findings “cannot be accepted as factual evidence”.

In their statement to Comcare’s investigator, Mr Howe and Mr Bourke said that while they had been reinstated, they were still being harassed.

“This has exacerbated their feelings of being victimised,” Comcare found.

The case follows that of David Reid, a former staff-elected health and safety officer who was suspended in June 2009 and sacked last June. He had also raised concerns about contamination in the ARI.

Anna Hazare fasts at Jantar Mantar, demands protection for whistleblowers

NDTV Correspondent

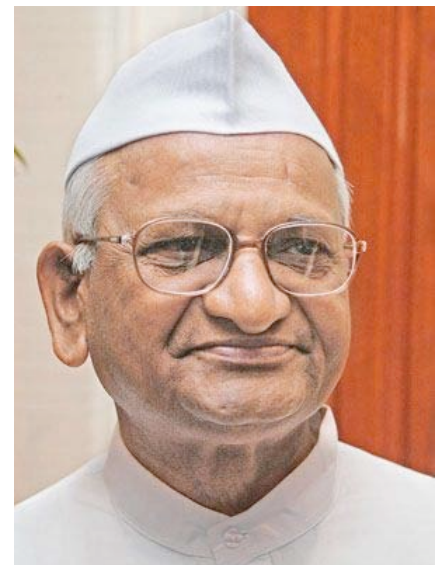
<http://www.ndtv.com/>, 25 March 2012

NEW DELHI After a brief bout of illness, anti-corruption crusader Anna Hazare is back in action. But this time, instead of the Lokpal Bill — a cause that he championed for throughout last year — it is the plight of whistleblowers in the country that the 74-year-old activist has decided to focus on. The veteran anti-graft activist is on a day-long fast at the Jantar Mantar in New

Delhi, demanding adequate protection for whistleblowers in the country.

“25 people are dead, but this government has gone dumb and deaf. It is not listening to the cries of people,” Mr Hazare said before setting out for the venue of his fast. The septuagenarian’s change of agenda is significant given the massive furore caused by the death of IPS officer Narendra Kumar Singh who was killed on March 8 allegedly by the mining mafia in Morena district of Madhya Pradesh. Mr Singh, who was on patrol duty, had tried to stop a tractor-trolley loaded with stones but was run over by the driver of the trolley. Mr Singh had seized many vehicles carrying illegally-mined stones and sand in the area in the past and is hence believed to have been murdered.

Mr Singh’s uncle, who along with the police officer’s family is also present at the fast, told NDTV that though they had full faith in the CBI which is probing the murder, they were with Mr Hazare in his fight for the cause.



Anna Hazare

The IPS officer is just one among several people who have been killed in recent years after they tried to blow the lid off corruption in the country. “Manjunath had raised the issue of adultery in oil . . . He is no more, the adultery is continuing . . . Narendra Kumar is no more. He had raised his voice against corruption. They had asked the government for protection, but they were not provided protection. In the Jan Lokpal Bill we want, there is

a provision for protecting whistleblowers,” said Arvind Kejriwal, one of Mr Hazare’s key aides who also comprise what is known as Team Anna.

India now has a Whistleblowers’ Protection Bill in place that seeks to set up a regular mechanism to encourage persons to disclose information on corruption or willful misuse of power by public servants, including ministers, by providing them adequate protection. This bill was passed by the Lok Sabha last year amidst the debate and vote on the Lokpal Bill.

The contentious bill found broad mention and is expected to do so at Jantar Mantar — the site which has now become synonymous with the Mr Hazare’s fight against corruption. Mr Hazare had, in August last year, held an epic 12-day fast at this very place in his fight for the Lokpal Bill — an event that galvanised almost an entire nation, forcing the government to accede to three key demands that he wanted incorporated in the then proposed anti-graft legislation. The Lokpal Bill intends to create an ombudsman tasked to check cases of corruption among government servants. It has been mired in controversy over a strong and public disagreement between the government and Mr Hazare and his group of activists over key tenets of the legislation. An effort to iron out the differences in the form of a drafting committee — comprising 10 members with five drawn from the government as well as the civil society — also failed miserably with the rift within the two parties widening with a very public, and at times, nasty verbal duel.

Dan Snyder clear-cutting whistleblower still under siege

Chief Park Ranger survives 7 years of retaliation to now face proposed removal

Public Employees for Environmental Responsibility
News release, 8 March 2012

WASHINGTON, DC — The National Park Service has destroyed the career of a Chief Ranger after he blew the whistle on illegal tree cutting by Washington Redskins owner Dan

Snyder, according to a compelling new book. The book details how the Park Service subjected its Chief Ranger to a mind-numbing retaliatory gauntlet including a failed criminal prosecution. Public Employees for Environmental Responsibility (PEER) calls the reprisal campaign against Robert M. Danno, a highly decorated 30-year veteran ranger, the most vicious it has yet witnessed.

In 2004, the billionaire owner of the Washington Redskins football team cut down hundreds of trees in a scenic easement in the C&O National Historic Park so he could gain an unobstructed view of the Potomac River from his mansion. As Chief Ranger, Danno tried to stop the logging and reported the violations to the Department of Interior Inspector General, which confirmed his charges and found that NPS had given Snyder improper secret approval. After that, his previously stellar career took a sharp downward spiral.

In 2008, the NPS pressed criminal charges against Danno on an unrelated matter, but he was unanimously acquitted after a federal jury trial in about twenty minutes of deliberation. After the acquittal, the NPS persisted in persecuting him —

- Two years after his acquittal, it proposed that Danno be removed from federal service on the same charges for which he had been acquitted. That proposal was made in December 2010 and has, after more than 14 months, still not been acted upon.
- The deciding official on his proposed removal is Deputy Regional Director Lisa Mendelson, who was Chief of Staff to NPS Director Fran Mainella when the tree cutting was done. According to the testimony of her Special Assistant, NPS gave Snyder the go-ahead at Mainella’s behest; and
- Danno was put on paid administrative leave for the next year and a half. After being stripped of his Chief Ranger duties for most of the past seven years, the NPS has also refused to restore his law enforcement authority or give him a permanent assignment.

In contrast to Danno’s travails, none of the NPS managers responsible for

improperly approving or condoning Snyder’s tree removal or for providing false information to federal investigators were formally punished. In fact, some have been promoted.



Robert M Danno

“If my story spurs the National Park Service to do some serious introspection and reevaluate its course, I will have accomplished my goal,” said Danno who details these events in his new book, *Worth Fighting For — A Park Ranger’s Unexpected Battle Against Federal Bureaucrats and Washington Redskins Owner Dan Snyder*. “The integrity of our national parks and the agency that oversees them is indeed worth fighting for.” Danno is being represented by the law firm of Avery, Dooley, Post & Avery, LLP.

In federal civil service, most proposals to remove are decided in weeks, not months or years. Inaction on a proposal to terminate an employee by an agency for more than a year is unprecedented in the long experience of PEER. Moreover, this extended process of reassignment, investigation, suspension, harassment, frivolous administrative charges, false criminal charges, and assigning him to issue picnic permits exhibits a distinct and profound pattern of reprisal.

“Rob Danno has been put through the bureaucratic equivalent of Dante’s Inferno,” stated PEER Executive Director Jeff Ruch, whose organization last year won the restoration of US Park Police Chief Teresa Chambers after a seven-year legal fight. “The current Park Service leadership should restore Rob Danno immediately and then address the inbred institutional corruption that tears at one of its finest rangers for protecting park resources — his highest duty.”

Whistleblower lawsuit puts spotlight on FDA technical reviews

Sam Kean

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Senator Charles Grassley has asked the FDA to explain why it monitored the computers of whistleblowers.

Credit: US Senate

The integrity of the scientific review process appears to be at the heart of recent allegations that Food and Drug Administration (FDA) officials spied electronically on whistleblowers — including scientists, an engineer, and a statistician — trying to expose alleged flaws in the agency’s approval process for cancer-screening devices.

Six former and current FDA employees last week filed a lawsuit in federal court alleging that the agency used spyware to take screenshots of employees’ personal e-mail accounts, and also retaliated against them in a number of ways for leaking documents to Congress and the press, including terminating their employment.

On Tuesday, US Senator Charles Grassley, the senior Republican on the Senate Committee on the Judiciary, sent a stern letter to FDA Commissioner Margaret Hamburg reminding the agency that interfering with such disclosures to Congress is illegal. It also asks the agency to answer a number of questions about the affair, including who authorized any surveillance and whether such monitoring is still occurring.

The lawsuit filers include two licensed doctors, one MD/PhD, one other scientist, an engineer, and a statistician, all of whom sat on scientific review committees for the Center for Devices and Radiological Health, which judges the efficacy of cancer-screening devices. The lawsuit alleges that senior FDA officials approved certain devices despite poor scientific reviews. The lawsuit mentions just a few devices — most prominently, one for colon cancer and one for breast cancer — but the complaints stretch to more than 10 different devices overall, says Stephen Kohn, the lead counsel for the filers and the director of the National Whistleblowers Center. Kohn added that in at least one case, officials pressured an engineer to change the warning labels on a device, removing negative language. (The FDA declined to comment on any aspect of the allegations because the lawsuit is pending.)

The whistleblowing began in October 2008, when FDA employees complained to Congress. Nine employees, later dubbed the “FDA nine” by FDA officials, next sent a letter to then-President-elect Barack Obama in January 2009 further detailing their complaints. Specifically, they said that “since 2006, FDA physicians and scientists have recommended five times not to approve mammography CAD [computer-aided detection] devices” because they failed to detect breast cancer and led to invasive and unnecessary follow-up work. FDA managers pushed for approving the devices anyway, allegedly “ordering, coercing, and intimidating FDA physicians and scientists to recommend approval, and then retaliating when the physicians and scientists refused to go along.”

In March 2009, FDA asked another physician (not part of the FDA nine) to review a colonoscopy device that used computed tomography (CT). The CT device already had FDA approval for some applications, but the manufacturer wanted it used as a general, population-wide screening tool for colon cancer. The physician rejected this use, arguing that the device did not work well and that, because each examination involved getting the equivalent of 800 x-rays, the device

might actually cause a small increase in cancer. The FDA approved the device, and the physician complained vociferously.

According to the lawsuit and Freedom of Information Act requests filed by the plaintiffs, at some point during the controversy FDA officials began capturing screenshots of the computers of the people who raised complaints, including screenshots of e-mail programs like Gmail. The monitoring continued for at least 2 years, according to the lawsuit, and Kohn says the captured e-mails included not only whistleblowing business but private messages, including a picture of someone’s dog. (When users log in, FDA computers do present a warning noting that employees should have “no reasonable expectation of privacy.”)

Kohn claims that FDA managers took the screenshots to determine who the whistleblowers consulted with and where they got their information, and then to widen surveillance to those other people. He says the government has used such tactics before with Central Intelligence Agency and National Security Agency employees suspected of leaking documents with national security implications, but never before for scientific cases. “It’s the first time we’ve seen heightened surveillance for health and safety issues,” he says. “And it will have a chilling effect. Maybe the public doesn’t need to know about how many spies we have in Iran, but they do need to know if a device will increase cancer risks.”

The lawsuit alleges that the FDA also used the screenshots to harass scientists. FDA officials asked the Department of Health and Human Services’ Office of Inspector General about the possibility of opening a criminal suit against one whistleblower for releasing unauthorized information. The office rejected the idea. The employee (who worked for the FDA through another agency) later lost his job despite “exceptional” or “fully successful” performance reviews in the previous 3 years, said the US Office of Special Counsel.

Kohn said that his clients learned about the screenshots only this past December, and that the revelation triggered the lawsuit.

Website for public service whistleblowers

Jacqui James

BULLYING, harassment, victimisation and discrimination is a problem in the Australian Public Service (APS). The Australian Public Service Commission's official statistics report that around 17% of APS employees are bullied or harassed in their workplaces each year. With around 165,000 people employed in the APS, this makes for a huge number of sufferers.

Many targets have tried to take a stand against their perpetrators and their protective employers by lodging complaints for breaches of the APS Code of Conduct. This makes them whistleblowers under the *Public Service Act* and they are supposed to be protected from victimisation. Yet, despite the protections that whistleblowers have on paper, the reality is that many whistleblowers experience further victimisation. It can be very difficult for whistleblowers to deal with their situations in isolation, being unaware that other employees may well have made similar complaints about the same perpetrators.

An innovative new website has recently been launched to address the power imbalance between targets and perpetrators/employers in the APS: <http://www.bullyingandharassmentintheaps.com>. The website aims to:

- put current and former APS employees in touch with one another who share a common APS perpetrator or retaliatory/neglectful APS agency;
- publish stories of past and current APS employees' experiences;
- set up voluntary support group sessions;
- provide information on what targets can really expect from APS agencies if they pick up the courage to speak out;
- provide information on how targets can protect their interests;
- inform targets of their APS policy and legal rights; and
- advocate on legal, policy and cultural reform issues.

The website also publishes stories about people's experiences using Commonwealth investigation and review agencies, such as the Australian Human Rights Commission.

Inspired by the WikiLeaks phenomenon, I created this website to help public sector whistleblowers. I became acutely aware of the extent and effects of workplace bullying and harassment in the public sector whilst undertaking my postgraduate studies and it was during this time that I was also exposed to Brian Martin's work on whistleblowing. The website was officially launched on 21 March 2012.

I am passionate about helping APS targets survive emotionally and professionally, and about pushing for much needed cultural change in the APS so that no more APS employees suffer unnecessarily. I use my own money and time to develop and promote the website, and support targets.

Jacqui James is a member of Whistleblowers Australia.

Police investigating police

Cynthia Kardell

HOW can police investigating police ever be acceptable? Police have even gone so far as to fabricate evidence to avoid culpability.

The coronial findings on the taser shooting of Adam Salter in his Sydney home, which were aired on the ABC TV *4 Corner's* program in March, is a case in point. The video clips of the police ostensibly concocting their story and the interview of the father by *4 Corners* were compelling viewing.

Adam's father had called an ambulance, because his son was stabbing himself in the neck. He had a history of mental illness and was having a psychotic episode.

The immediate outcry in the media and from others, like us (Whistleblowers Australia), David Shoebridge (NSW Greens MLC) and the National Police Accountability Network (NPAN, a reform group of lawyers, academics and activists) appears to

have pushed the police into asking the Police Integrity Commission to investigate the conduct of the police, who the Coroner believed had fabricated a story to pervert the course of the coronial inquiry.

Almost within a week, an unarmed young Brazilian student, Roberto Laudisio Curtii, died in Sydney after being shot dead by tasers as he ran from the police. The video clip unfortunately finished just moments before he was shot, but he was clearly running away. The NSW Ombudsman, which recently released a report into taser use by NSW Police, is to investigate the police conduct.

A few days later a young male suspect was chased, cornered and shot dead in the Westfield Shopping Mall at Parramatta in Sydney. The NSW Police critical incident team are investigating the police's response and use of a taser in the death.



Cynthia Kardell at the Whistleblowers Australia conference, November 2011

None of this is new to us in Whistleblowers Australia, of course. Former president Jean Lennane and I were members of the Internal Witness Support Committee (IWAC) that was set up in 1996 to monitor the implementation of reforms identified by the Wood Royal Commission inquiry into police corruption in NSW. By 2000 we were pushing hard for a national critical incident system, which would have allowed each state to draw on another state's personnel to investigate

any incident where a police officer was the suspect or “person of interest.” By 2004 we were having no success, but pushing instead for a separate forensic investigative body to be set up, modelled on some of the bodies operating in Europe, which we see portrayed so often by the BBC in police dramas. They say fiction has a habit of becoming reality and we certainly hope that it does. The Police responded by closing down the IWAC Committee.

Of course, these ideas aren’t just ours and fortunately so, because recently activists, academics and others have started agitating for reform, which would see police no longer investigating police. We have joined the throng, writing to the NSW Police Commissioner Andrew Scipione, Greens MP Shoebridge and NPAN, so our letter and those to follow will go into the mix for change. Perhaps its time has come?

You might like to learn more about the issue and, if so, you could start with the items listed below, online.

“Tasers: not less than lethal” (interview by Julia and Erin with Dr Thalia Anthony)
<http://www.donebylaw.org/>

Chris Berg, “Support from unusual sources”
<http://www.abc.net.au/unleashed/3916328.html>

Anna Brown, “Taser dangers”
<http://www.theage.com.au/opinion/politics/a-50000volt-electric-shock-is-a-highly-dangerous-weapon-20120319-1vfo9.html>

Cynthia Kardell is president of Whistleblowers Australia.



Whistleblowers Australia conference, November 2011

She's got what it takes

Lotte Fog

Lotte Fog blew the whistle on radiotherapy underdosing at Royal Adelaide Hospital. She told her story (under the pseudonym Geraldine Macdonald) in the April 2009 issue of *The Whistle*, where a poem of hers was published. This is the third of six poems Lotte wrote during the period of her whistle-blowing. She can be contacted at lottesfog@yahoo.co.uk.

Author's note This poem describes one of my very few colleagues who continued to speak to and socialise with me as I discovered the error, tried to get my manager to act on it and was removed from my department. This colleague always met me with a smile and a joke, even on the bad days.

It takes some bond with humankind
 a fellowship with others
 to want to ease a suff'ring mind
 to care where none else bothers

It takes desire to laugh at life
 and surplus happiness
 to share one's joy where frowns are
 rife
 with happiness friends bless

It takes pure courage to stand firm
 to dare to voice dissent
 when faced with diff'culty: affirm
 one right from easy kenn't*

It takes a big heart, beating strong
 to never-faillingly
 in times of right; and times of wrong
 far and clearly see

The few who're blessed, with skills
 thus fledged
 you might think "lucky bastards" of
 them

I wouldn't call them privileged
 the privileged ones are us who know
 them

* "knows" or "understands" in Scottish



Alissa Del Vecchio performing at the Whistleblowers Australia conference



Bronte Locke, Ismet Vardar and Vanessa Locke performing



Debbie Locke at the conference

Credit for all photos (except this one):
 Debbie Locke

Whistleblowers Australia contacts

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“Caring & sharing” meetings We listen to your story, provide feedback and possibly guidance for your next few steps. Held by arrangement at 7.00pm on the 2nd and 4th Tuesday nights of each month, Presbyterian Church (Crypt), 7-A Campbell Street, Balmain 2041. Ring beforehand to arrange a meeting.

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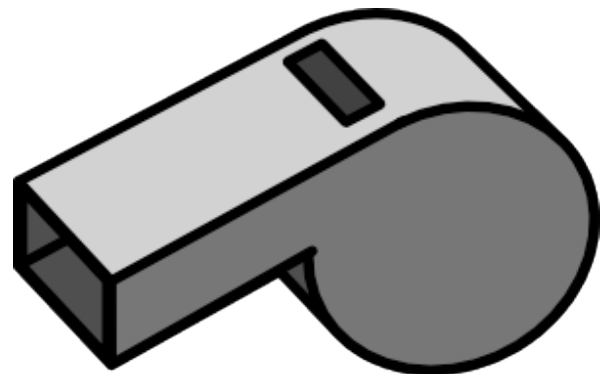
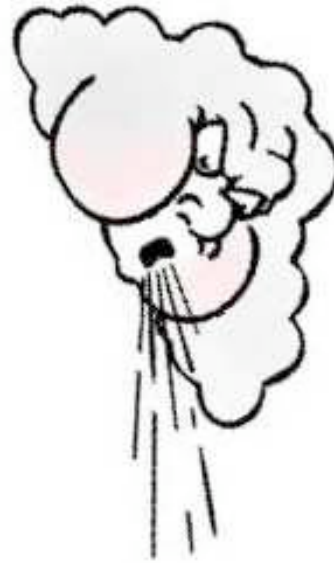
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Blowing the whistle



Whistleblowers Australia membership

Membership of WBA involves an annual fee of \$25, payable to Whistleblowers Australia. 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.

To subscribe to *The Whistle* but not join WBA, the annual subscription fee is \$25.

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