

Neil Winzer
WA

23rd January 2004

Productivity Commission
National Workers' Compensation and Occupational Health and Safety
Frameworks Public Inquiry

Dear Committee members

- ❑ **YOUR INTERIM REPORT**
- ❑ **MY VIEW THAT YOU HAVE NOT REPORTED ON ANYTHING 'OUTSIDE THE SQUARE'**
- ❑ **WHISTLEBLOWING AND THE BULLYING THAT INVARIABLY FOLLOWS ARE MAJOR PRODUCTIVITY ISSUES**

Most appreciative of the opportunity provided by Minister Tony Abbott to participate in the Inquiry I made submissions in writing 8.6.03 and at the Perth hearing 13.6.03. Thank you for this opportunity to submit comment on your Interim Report.

For the convenience of those I have provided a courtesy copy of this submission, I have also attached a copy of the hearing transcript together with copy of the transparencies I used that are not included on the web at www.pc.gov.au . The web copy of my written submission 8.6.03 is correct.

My submissions 8.6.03 and 13.6.03 included evidence to support my claim of having been subject to bullying since 1995 because of my attempts in the public interest to draw attention to corruption in the WA Department of Transport, now Planning and Infrastructure.

Productivity was/is very much at the centre of my initial public interest claim in that it involved the choice senior officers of the Department made between organisational changes under an enterprise agreement and organisational changes under a policy for privatisation and contracting-out.

I claim that subsequent to my initial claim the so-called monitoring/regulatory agencies that I have turned to for assistance have contributed significantly to the bullying. Those agencies include the Anti-Corruption Commission, Public Sector Standards Commission, Auditor Generals, Equal Opportunity Commission, Crown Solicitor's Office and the Office of the Premier. WorkCover WA has in my view played a particularly active role.

A feature of my appeal to the external agencies has been the fact that on no occasion did my employer ever address my public interest claim or the evidence I provided in support.

Difficult though it may be for some new readers of this sort of experience to accept, to-date there has been no investigation of my public interest claim per se by any individual or agency. In response to my protests on this count the WA Ombudsman, before closing my file, reported 25.7.03 “quite extensive preliminary inquiries” conducted by the Public Sector Standards Commission. The Premier has been advised that I have “no evidence”. A Police Service investigation has been underway for 18 months, but that is being conducted strictly under the provisions of the Criminal Code.

I began my submission 8.6.03 to your Inquiry as follows:

The President of the United States recently, in the wake of the crises surrounding Enron and WorldCom, cited the need for an overhaul of corporate America.

Australia too faces a similarly task as indicated by the problems associated with APRA, OneTel and Pan.

Clearly there are productivity and social issues of enormous proportions linked to those public and private sector organisations that consequently impact on many other organisations and the general public.

It is equally clear that those problems would not have reached such a stage if somebody within those organisations had spoken out about practices they knew were at least questionable.

To make the point that what I’m saying has some legitimacy I note that Professor Allan Fels, until recently Chairman of the Australian Competition and Consumer Commission for 14 years, provided a keynote address 31.7.03 entitled *Whistleblowing: Opportunity or Threat? - Understanding the Corporate Governance and Public Sector Reforms*. Professor Fels began:

In 2002, three women working for quite different organisations – Enron, World.Com and the FBI – were made Time Persons of the Year to acknowledge their bravery in speaking up in regard to corporate malpractices and oversights. It is a sign of the importance of the whistleblower in today’s society, where increasing emphasis is placed on corporate governance in a direct response to corporate collapses. Indeed, the fact that these three women were so acknowledged, represents the emergence of a significant cultural shift to the attitude of the informant, as society recognises the costs associated with corporate malpractice both in financial terms, risks to public safety and other ramifications that can arise. (Fels:p2)

Professor Allan Fels added:

Whistleblowing has been on the increase in the United States. According to Johnson the reasons are: changes in the bureaucracy which is more educated and professional; the wide range of laws that encourage whistleblowing; federal and state whistleblower protection; institutional support for whistleblowers; and a culture that often values whistleblowing. (Fels:p2)

I think I made it clear in my submissions to your Inquiry that I do not believe that the improvements the good Professor referred to in regard to the United States could be said to have commenced in Western Australia. Mr Chris Read also made this point on ABC Stateline 28.11.03. Chris' efforts to report wastage in the office of the Ombudsman, despite his vindication and eventual resignation of the Ombudsman, have resulted in the ruin of his career.

Another of the many valuable observations made by Professor Fels that struck a particularly sensitive chord with me was as follows:

The whistleblower may feel they face a conflict between loyalty to their organisation and loyalty to the public. The fact is that loyalty to an organisation stems from an acceptance of its objectives. However, if the objectives involve breaking the law it is difficult to see that there's any loyalty obligation. The public interest comes first. (Fels:p7)

I had thought favourably of the character of Dr Chris Whitaker during his time as Assistant Director General of the old Department of Transport. So much so that around the time that I first sensed that I was on the 'outer' due to my efforts to comment on the organisational change processes, I sought his support. I had been advised by Transport that I "required significant re-direction" and "significant support in pursuing Transport's reform agenda" (report 19.7.95). At that time Dr Whitaker was the Executive Director, Ministry of Fair Trading. As to the skills and attributes that he listed in the reference he gave me 24.10.95, Dr Whitaker credited me with "a very high level of commitment to the organisation in which [I worked]".

However, after being promoted back to the much greater responsibilities of the Department of Transport, Dr Whitaker's support for me waned. He has since repeatedly claimed on oath that he "discussed" my public interest claim with me many times. The fact that my constant efforts to have the Department and all the other individuals and agencies involved table a record of such discussions have proved fruitless, shows to me that Dr Whitaker had added himself to the forever-growing list of those wishing to suppress my public interest claim.

I return to your interim report in more direct terms. My view is that the Report is pretty much standard stuff. It reflects little of what I thought would have been Minister Abbott's objective of actually achieving a fresh look in terms of how a

national workers' compensation and occupational health and safety framework could improve Australia's productivity.

Certainly, you have not mentioned that whistleblowing and the bullying that invariably follows are major productivity issues.

I hope that you are able to include these ideas in your final report.

As a matter of simple 'housekeeping', I respectfully suggest in regard to your various lists of contributors that where possible you provide a few words indicating the main thrust of the contribution. It is an enormous task in actually opening up each contributors submission/s to identify 'where they are coming from' and what they may have to say.

Yours sincerely

Neil Winzer

CC's

Hon G Gallop, Premier of WA
 Hon E Ripper, Deputy Premier
 Hon A MacTiernan, MLA
 Hon Minister K Chance, MLC
 Hon Minister J Kobelke, MLA
 Hon Minister J McGinty, MLA
 Hon Minister M Roberts, MLA
 Hon Dianne Guise, MLA
 Hon C Edwardes MLA
 Hon D Tomlinson MLC
 Hon J Scott, MLC
 Hon P Embry, MLC
 Assoc Prof A Peachment
 Mr T Reakes

Mr S Yuen
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 Chief of Staff Channel 7
 Chief of Staff Channel 9
 Chief of Staff Channel 10
 Editor, The Australian
 Editor, The Sunday Times
 Editor, West Australian
 Ms Colleen Egan
 Ms Fiona Adolph
 Mr John Flint
 Mr Steve Pennells
 Mr Paul Murray
 Mr Liam Bartlett

**TRANSCRIPT
OF PROCEEDINGS**

SPARK AND CANNON

Telephone:

Adelaide (08) 8212 3699

Hobart (03) 6224 2499

Melbourne (03) 9670 6989

Perth (08) 9325 4577

Sydney (02) 9211 4077

PRODUCTIVITY COMMISSION

**INQUIRY INTO NATIONAL WORKERS COMPENSATION AND
OCCUPATIONAL HEALTH AND SAFETY FRAMEWORKS**

PROF M.C. WOODS, Presiding Commissioner

**TRANSCRIPT OF PROCEEDINGS
AT PERTH ON FRIDAY, 13 JUNE 2003, AT 8.46 AM
Continued from 12/6/03 in Adelaide**

PROF WOODS: Welcome to the Perth public hearings for the Productivity Commission inquiry into National Workers Compensation and Occupational Health and Safety Frameworks. I'm Mike Woods. I'm the presiding commissioner for this inquiry.

As most of you will be aware, the commission released an issues paper in April, setting out the terms of reference and some initial issues. The inquiry explores the opportunities to develop national frameworks for workers compensation and occupational health and safety, and I would ask all participants to focus on the terms of reference before the inquiry. Our full terms of reference are available from our staff.

The commission has already travelled to all states and territories, talking to a wide cross-section of people and organisations interested in workers compensation and occupational health and safety national frameworks. We've talked to groups from a diversity of backgrounds and met directly with government organisations, unions, employers, insurers, service providers and others, listening to their experiences and their views on future directions. We have already received over 20 submissions from interested parties. I would like to express my thanks and those of the staff for the courtesy extended to us in our travels and deliberations so far, and for the thoughtful contributions that so many have already made to the course of this inquiry. These hearings represent the next stage of the inquiry. A draft report will be issued by the end of September and there will be an opportunity to present further submissions and attend the second round of hearings. The final report is to be submitted by March 2004.

I would like these hearings to be conducted in a reasonably informal manner but remind participants that a full transcript will be taken and will be made available to all interested parties. I will provide an opportunity during the course of the day for any persons present - but not scheduled - to make an oral presentation to the inquiry, should they so wish. I would like to welcome to the hearings our first participant Mr Neil Winzer. Could you please state for the record your name and any representation.

MR WINZER: Good morning. I am Neil Robert Winzer. I thank Minister Tony Abbott for this opportunity. Excuse me having my head down and simply reading this out. I'm going to address the substance of the quite lengthy paper that I've already submitted to the Productivity Commission. As far as representation goes, I can say that technically I am employed with the WA Department of Planning and Infrastructure, but I've not been at work since January 99. I have received no income for the past three years. The reason for my circumstances involves the productivity issues associated with the choices for delivering public services that my department faced back in 1995. I won't go into the complexities of my story, as they are endless.

PROF WOODS: We do have a submission from you, so that will be available on the record.

MR WINZER: Yes.

PROF WOODS: Thank you.

MR WINZER: I gather it will be on the web next week.

PROF WOODS: Yes.

MR WINZER: Today I think it is suffice for me to say that these choices that the department faced with regard to productivity back in 1995 were between the best practice organisational change agenda that had been made effective through the legalities involving the public service commissioner, Treasury, the cabinet of our state government and both the federal and state Industrial Relations Commission. The other choice - a simplistic approach - was the then government's policies for privatisation and contracting out, so you may appreciate they are very much productivity issues, the choice between these approaches to productivity for delivering public services.

My duties featured in my statement included and I quote, "Implement enterprise bargaining, best practice and benchmarking throughout the department." I emphasise it is obvious that any government has a right to change the agenda for work organisation and productivity of any department; that is quite clear and obvious. My concern within the Department of Transport - now Planning and Infrastructure - was about the process of switching from one agenda to the other. I actually had slides done. I'm not thinking about the format of today but I have actually got enough copies of those slides to hand around, if you don't mind.

I'm looking at slide 1, which you will have soon. My whistleblower experience began, like many others, with simple questions and then expressions of concern within the scope of my duty statement. I have since learned that my whistleblower experience became textbook. I'll read all this out - given we're being taped - ahead of my slide. Productivity issues: on a scale from minor matters related to work organisation - you know, such as where you keep your pens and paper - to illegal conduct causing shareholder or public detriment. Unfortunately there is no shortage of examples of both public and private sector organisations that have been or still are at the centre of highly publicised crises that ultimately impact on productivity. On my slide there I've given you the few examples of HIH and One.Tel, Pan, WA Main Roads, WA ombudsman. Those from WA will know of all of these - WA Department of Environmental Protection, and I've got in brackets there, "Wagerup,

SLIDE ONE — PRODUCTIVITY ISSUES

On a scale from minor matters related to work organisation to illegal conduct causing shareholder and/or public detriment

eg. HIH, OneTel, Pan, WA Main Roads, WA Ombudsman, WA Department of Environmental Protection (Wagerup, Bellview, Brookdale), WA Police Service,



REPORTING

The principles of honesty, trust and accountability are critical

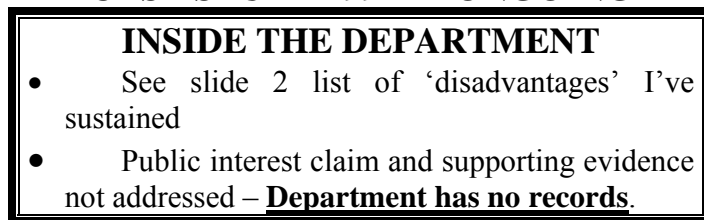
Alternative paths an organisation could take once questions are asked or criticisms are made by the employee/s in regard to a productivity issue



Path 1.



**WA DEPARTMENT OF TRANSPORT
CASE STUDY 1994 — ONGOING**

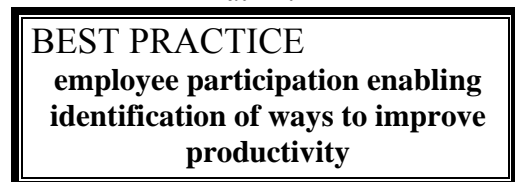


Having sustained an injury I complained to the Premier about WorkCover being an inappropriate forum for the hearing of my claim



The WorkCover WA experience — particularly the use of psychiatrists to discredit me.

Path 2.



→ **COST BENEFIT ANALYSIS**



[continuation of transcript]

Bellevue, Brookdale." Of course we have down the road the royal commission into the WA police service, and they have their productivity, of course, in terms of -looking at it simplistically - lowering the crime rate and how they do that, how they allocate resources to do that.

I also was going to refer you to my second slide headed Hansard, 6/9/2000.

This is an extract from the report to parliament from the standing committee on public administration provided by the chair at the time, the Honourable Kim Chance, now a minister of this state. The first part of his report included - and I'm reading this out to basically give you a picture of my situation as it was appreciated by Minister Chance.

The 1995 enterprise bargaining agreement was a legal document and it imposed legal obligations on each party. Mr Winzer took his duties as a public servant very seriously, and charged with a responsibility for ensuring that enterprise bargaining agreement and the obligations it imposed were very properly administered by his employer, the Department of Transport. He became concerned that the Department of Transport was failing to meet those obligations.

That's basically the outlining of my whistleblower situation. Going back to slide 1 and those examples I cited, I occasionally had a cup of tea with two of the people at the centre of main roads and ombudsman matters respectively. The one that was responsible for the commissioner of main roads being sacked is away this week, so I was unable to contact him for permission to name him. I am sure if you are from WA you will recall the considerable media attention to that matter.

Chris Reid was responsible for the WA ombudsman being sacked. I got Chris's permission last night to give his name, although given the media attention it was no secret. Unfortunately neither of these friends of mine are working any longer, due to their public interest disclosure experience. That fact alone is a productivity issue. In my view, what I put to you today - and I'm drawing your attention to my first slide again - all hinges upon those principles that I've listed there under the heading Reporting. That is, I'm suggesting that for people to report on productivity issues within their organisation, there's a necessity for the principles of honesty, trust and accountability to be upheld within the organisation. I should have included integrity on that list.

I believe everybody at least understands the meaning of these principles, whether you're a believer in Buddhism, Catholicism, capitalism, Marxism or simply yourself - or whatever your belief - you know the meaning of these principles. On my slide 1 I've suggested basic terms. There are two pathways that may face an organisation once a report is made by someone within the organisation or, for that matter, outside as to a productivity issue. Pathway 2 I've suggested in the box there

SLIDE TWO — THE CONSEQUENCES FOR ME INSIDE THE DEPARTMENT

Circa April 1995

- I was admonished for making a suggestion in relation to the implementation of the 1995 EBA;
- Labeled as “not supportive of the Department’s objectives”;
- Denied promotion to a position created for the purpose of implementing the 1995 EBA — assessed as requiring “significant re-direction” and “significant support in pursuing Transport’s reform agenda”;
- The duties of my substantive position were contracted-out;
- Attempted redeployment — My transfer to a new Corporate Service organisational structure was obstructed without explanation for seven months after the transfer of my 90 colleagues;
- Six months after I was eventually transferred to the new organisational structure, I was subject to a restructuring of one and redeployed;
- Repeatedly denied the provisions of the redeployment legislation;
- Unlawfully de-registered as a redeployee and quarantined from consideration for vacancies in the wider public sector;

August 1998

- Despite my project work over the previous six months had been acknowledged by the Director General as “outstanding”, I was advised of Transport’s intention to again register me as a redeployee;
- I submitted to Transport and then WorkSafe that the redeployment system represented an unsafe condition of employment — I provided case studies of my experience;
- I initiated my complaints under the Western Australian Public Sector Code of Ethics — the PSSC was subsequently involved;
- Three working days after submitting my claim to Mr Harris, the Director General, and despite having expressed concerns about a connection between the dysfunction in the redeployment system and my health, I was again registered as a redeployee — in breach of the Redeployment Regulations as there was a suitable vacant position at Transport;
- I was instructed to take annual leave forthwith in order to prevent me from consulting with staff with the aim of achieving open debate;
- Twice threatened with disciplinary charges after I had attempted, with the support of my union, to negotiate the timing of the imposed annual leave;
- Threatened with disciplinary charges as a result of having used departmental resources to deal with “personal employment related issues”;
- Threatened with defamation action because I named the people I was complaining about;
- Provided with a medical appointment because I was “...exhibiting signs indicate that (I was) having difficulty in coping in the work situation” and because of my “preoccupation” with my 1995 EBA related claims;
- Advised that Transport’s medical consultant’s written request of my doctor for an assessment of my fitness to work had not been asked for;
- Harassed in relation to unspecified corruption and again threatened with disciplinary charges — now Minister Chance reported to Parliament (6.9.00) on behalf of the Standing Committee on Public Administration. See separate slide.
- Based on claims that I was under-performing it was proposed that my trial as a redeployee in a vacant Transport position be terminated; and
- Threatened with defamation action. Because the evidence supporting my longstanding public interest claim had never been addressed and I had nevertheless been harassed about unspecified rumours in the Department, I tried to further highlight the inconsistency by naming officers involved in two other separate cases I believe constituted a corruption of process. The first case involved an attempt to sanitise a report on a Police Service Road Safety Workshop. The second case involved an Executive Director, following a phone call from then Commissioner Falconer, instructing an officer to re-write a Police Service submission that had not been short-listed for a Western Australian Road Safety Award. Mr Harris’ letter to me 25.10.99, included:
 “Please note that I do not agree with your views and do not accept the allegations you have made. I note, however, that you make a range of allegations against a number of members of the staff of Transport. Because of the significant potential for these to be defamatory if repeated elsewhere, I strongly advise you to be cautious about repeating them.”

[continuation of transcript]

would be dealing with it by way of best practice. I should know about best practice. When I was working, that was my area of expertise, as I've mentioned earlier by my duty statement. Through employee participation an organisation would be enabled to identify ways of improving productivity.

The alternative pathway would be for an organisation to deal with the person who raised the issue of productivity. I would like to give you a snapshot of my circumstances that commenced in the Department of Transport effectively back in 1995 and is ongoing. There is transcript of acknowledgments of the key players about my first attempts to speak to the director-general about the need for him to demonstrate a commitment to the department's enterprise bargaining agreement.

I will take you to slide 3 headed Consequences for Me Inside the Department. I can't - despite the taping of this - take the time to read all this out; suffice to say, as I suggested earlier, it's pretty textbook circumstances for a person making a public interest disclosure. As you'll see by the list there it began pretty subtly with labels forced upon me, "not supportive of the department's objectives". Then we go through the spectrum of, you know, threats of discipline, losing my job, contractors brought in to do my job, threats of defamation action. Looking back, it is quite alarming but, as I say, I have read considerable material now on these sort of processes for people making public interest disclosures, and mine is not unusual.

You'll see there one of my past director-generals, before WorkCover and on oath, actually acknowledging that I was sent for counselling because in his view, or in the views of his senior management, I was exhibiting signs that indicated that I was having difficulty in coping in the work situation. This was three to four years into my experience. He said they sent me for counselling because of my "preoccupation" with the matters I was raising about productivity in the department, and I was suggesting - and it was about that time that I used for the first time the words "serious improper conduct and/or corruption".

That very detailed slide about the consequences for me, I can't offset unfortunately, with another slide of a record of the department addressing my public interest claim or the evidence I offered in support of my public interest claim because they never did - it never happened. They never addressed my public interest claim or the evidence I offered in support. However, the minister's parliamentary secretary, Graham Giffard MLC, responded 7 May of last year to questions on notice from Greens MLC Jim Scott as follows:

- (1) The department has followed the lawful practice of keeping all records relating to the complaints by Mr Winzer;
- (2) all submissions made to the department by Mr Winzer have been examined and where necessary investigated by the senior officers of the department.

SLIDE THREE — OUTSIDE THE DEPARTMENT

OUTCOME OF MY APPEALS FOR HELP

- The Human Rights and Equal Opportunity Commission did not afford my submission the status of a complaint;
- The Equal Opportunity Tribunal argued that they did “...not have the jurisdiction to deal with the matters raised in [my] letter.”;
- WorkSafe suggested that the Public Sector Standards Commission was the “...best avenue for pursuing [my] concerns.”;
- The Public Sector Standards Commission stated that “...there is no justification for this office to pursue this matter further.”;
- The Anti-Corruption Commission suggested that the matters I had raised “...would normally be of interest to the Commissioner of Public Sector Standards.”;
- The Joint Standing Committee on Anti-Corruption advised me that their standing orders prevented them from looking at a matter that had been referred by the ACC to the PSSC; and
- The Auditor General, after having his officers review the content of the files of the Public Sector Standards Commission, advised that he regretted that he was “...unable to assist [me] further in this matter.” The Hon Kim Chance and Assoc Prof Allan Peachment also met face to face with the AG on my behalf, but without success.

[continuation of transcript]

It never happened. There are no records. Once upon a time, when I was a naive happy chappie, I thought you could not mislead parliament in this way.

What I am calling slide 3 is headed up, as part of my case study, Outside the Department; outcome of my appeals for help. I will read this out very quickly. The first dot point:

The Human Rights and Equal Opportunity Commission did not afford my submission the status of a complaint.

Second dot point, the Equal Opportunity Tribunal argued they do not have the jurisdiction to deal with the matters raised in my letter. Just quickly, because the Equal Opportunity Commission didn't give the status of complaint, legally I was put out of bounds; I was basically not let in the front door. It has to be called a "complaint" to be able to go to the tribunal to complain about the Equal Opportunity Commissioner. I cynically suggest to you that the Equal Opportunity Commissioner circulated in a club of CEOs and I suspect when she saw the names of the director-generals on my complaint that swayed her view of my submission.

My third dot point: Worksafe suggested that the Public Sector Standards Commission was the best avenue for pursuing my concerns. I had suffered an injury and it was as a result of the thrust of my approach to Worksafe; it was about the fact that I was a redeployee and the redeployment system was acknowledged as dysfunctional. You will recall much press and endless debate in parliament about it being dysfunctional. But Worksafe sent me to Public Sector Standards Commission.

The Public Sector Standards Commissioner stated, and I quote, "There is no justification for this office to pursue the matter further."

The Anti-Corruption Commission suggested that the matters I had raised would normally be of interest to the Public Sector Standards Commissioner.

The joint standing committee on the anti-corruption commission advised that their standing orders prevented them from looking at a matter that had been referred by the Anti-Corruption Commission to the Public Sector Standards Commissioner. I excuse you if you want to have a chuckle here. This is really, "Yes, Minister" stuff surely.

My last dot point there, the auditor-general, after having his officers review the content of the files of the Public Sector Standards Commissioner advised that he regretted that he was quote, "unable to assist me further in this matter". Minister Chance and a good supporter of mine, Associate Professor Peachment, met face to face with the auditor-general to try to explain to him what the circumstances were and that we were dealing with corruption and the bill to the public, by my estimate, exceeds \$10 million to this day, but nothing happened through the auditor-general.

I put to the premier, having had no joy with any of those external organisations, that justice could only be served if an investigation of my public interest claim preceded the hearing of my application for workers compensation because of my injury. I certainly felt like an enemy of the people. I heard something on TV the other night from - you may correct me - Constable McCartney, the police royal commission down the road - I think he said something very, very similar. He felt as though he was the crook.

The WorkCover experience, as I couldn't prevent myself ending up there, was simply horrific and I won't go into the detail of it. As you may easily see from my full submission to this inquiry, that experience has left me with a view that WorkCover wilfully collaborated with my employer to discredit me and thus dismiss my public interest claim. I encourage you to look at the evidence I have provided. A lot of it is about the format up there and the procedure and what I suggest is the value-set of their review officers, that allowed this stream of people - and there were approaching 30 people from the department because you will appreciate whistleblowers have few supporters. There was a stream of people for the department. Two past directors-general and the director-general at that time were allowed to make statements about significant events and documents and say, "Mr Winzer was given this document," and I was sitting there saying, "Where is it? Where is it?" In the decision the review officer said I was insolent. These documents don't exist.

I go back to my slide number 1, down the bottom. As I said, the WorkCover experience was horrific and a particularly ugly aspect of the experience was the use of psychiatrists. I can't see a clock but I hope I've got five minutes to deal with this. Recent statistics obtained through FOI procedures show that three particular psychiatrists - and I won't name them today, I won't attract the crabs - were most often used by WorkCover. One after attracting criticisms in the WA parliament - I have got those stats if you want. In fact you may be familiar - they are not actually from freedom of information; it's what was used very publicly by a high-profile lawyer in Perth and it has the names of all of the most commonly used medical practitioners on it.

There are three psychiatrists there - the ones that I want to draw your attention to - the first one, after attracting criticism in the WA parliament over some years and being at the centre of a number of inquiries conducted by the coroner, opted to remove himself from the workers compensation arena. I have the Hansard copy of the debate in parliament about this fellow here. You can verify that. Going back, this first started in 1994 and you will appreciate this fellow was doing what he did - - -

PROF WOODS: If that's already on the public record, Mr Winzer, we don't need to repeat it then.

MR WINZER: That's fine. Over years he drew attention and, as I understand it, in the end he opted to remove himself. The second WorkCover psychiatrist I draw your attention to - they used to fly him in from Sydney. The following is taken from media reports and to back the media reports up here I actually have the document from the New South Wales Medical Tribunal - to back this up. This is taken from a media report: "Psychiatrist" - name - "has been found guilty of unsatisfactory professional conduct by the Medical Tribunal of New South Wales and is to be deregistered. The patient declared that" - name - "visited her home about midnight with a bottle of scotch in hand. He performed massage, then urinated on her before sexual intercourse." I have a copy of the tribunal decision to deregister that fellow here if you wish to see it.

The third WorkCover psychiatrist that I draw your attention to is today across the other side of town in the Children's Court - because the Children's Court doesn't function Fridays - beginning his four-day public hearing before the Medical Board of WA, and obviously I wouldn't have been here. This is the fellow my department sent me to see. You know him, you people here who are familiar with the - - **PROF**

WOODS: Can we - - -

MR WINZER: I understand the Medical Board received approximately 40 complaints against this fellow last year alone. I share the view with many members of the Injured Persons Action Support Association that WorkCover is corrupt. IPASA have made a separate submission to this inquiry.

I address the last item on my overhead number 1 in the corner there - costs. The costs associated with my case study that have been or will be ultimately paid for by the taxpayers must be significant. There are the unresolved questions as to whether there was in fact corruption involved, as I claim, in the process of switching to privatisation in contracting out and whether, if the things that were privatised that shouldn't have been because of the process of switching - such as the bus system - have taxpayers incurred a detriment or not? We will never know those costs; nobody is going to do the numbers.

I would ask you about the personal cost to those who no longer work as a result of the agenda-switching process. With respect to my case, I estimate the cost directly associated with the attempt to silence me now far exceeds a total of \$1 million. When I was with my former union, their solicitors estimated the WorkCover legal costs to be in the order of 600,000. Some of the psychiatric reports that were done on me ran to 30 pages; some of their reading - just single instances of

SLIDE FOUR — HANSARD 6.9.00

EXTRACT FROM THE REPORT TO PARLIAMENT FROM THE STANDING COMMITTEE ON PUBLIC ADMINISTRATION PROVIDED BY THE CHAIR, THE HON KIM CHANCE MLC, NOW A MINISTER

“... the 1995 EBA was a legal document, and it imposed legal obligations on each party. Mr Winzer took his duties as a public servant very seriously and charged with the responsibility of ensuring that the enterprise bargaining agreement and the obligations it imposed were being properly administered by his employer, the Department of Transport, he became concerned that the Department of Transport was failing to meet those obligations.”

And:

“I will not go into the fine detail of the harassment, except in one particular case. Upon being summoned to the office of one of his superiors – who I do not intend to name – he found that not only was his superior in the room but also a lawyer was present. He had no warning that a legal representative would be present on the employer’s side and he had no opportunity to arrange his own representation either from his union or another legal practitioner. He was asked to substantiate rumours which were said to be circulating within the Department of transport about allegations of corruption within the department. Mr Winzer had not been the source of these rumours. Mr Winzer assures me – and there is no evidence to the contrary – that he has never at any time repeated those particular rumours. He was nevertheless asked to substantiate rumours to which he had never been a party – rumours which he had certainly heard, because they had been heard by everybody in the Department of Transport, but rumours which had no connection with him whatsoever. When this matter went to review [conducted by the Public Sector Standards Commission] – and I will not go into the details of that review – the evidence given of that meeting was that upon being challenged to substantiate his allegations he refused to do so. That is a twist of the truth.” (Hansard:734-5) (My emphasis added)

[continuation of transcript]

reading they were given, they charged for 20 hours - just for one instance.

Going back to what I was calling slide 4 headed up Hansard 6/9/2000, again Minister Chance. As you mentioned, commissioner, this is a public record now so I won't read it all out but Minister Chance described, in reporting to parliament on behalf of that standing committee, the harassment I was subject to. Although he didn't say the "twist of the truth" - the expression he uses on the bottom line there - was actually the responsibility of the Public Sector Standards Commission. I went to great lengths with a colleague to explain to them. Associate Prof Peachment wrote to them, Kim Chance wrote to them and said, "Get this right, get this right." But, no, they closed the file on me, despite the great efforts put to them that there was a twist of the truth about the history of my attempts to make a public interest claim. I go into excruciating detail of that twist of the truth and how it was constructed in my full submission which you'll be able to access on the web next week.

I should mention very quickly - and I've got some copies - my good friend sitting there, Steve Yuen, gave me some figures that he was provided yesterday about the cost of bullying, because it was an experience of mine related to the Anti-Corruption Commission. Despite my going to the deputy premier and saying, "Look, I don't want these people near me again," they still attempted, under the excuse that they were simply in the area, in my suburb - without any appointment they knocked on my door. Fortunately I wasn't at home. But so concerned was I as to what may have been the outcome of that uninvited and unscheduled visit, I attempted to get a restraining order against the Anti-Corruption Commission in the Joondalup Court.

There was I, as usual on my Pat Malone, and there was the Anti-Corruption Commission with their legal counsel in number and I wasn't even allowed by the justice to provide documents - that is, my correspondence with the deputy premier. He just said, "Misconceived, Mr Winzer. Next, please," and that was it. So I didn't get the restraining order up but I retain the view that they were a bullying organisation and I am able to substantiate that today. You would have seen the press - I think it's 20 staff within the Anti-Corruption Commission feeling bullied, and it was a bullying culture. I have a copy here of the Commissioner for Public Sector Standards, ironically enough, reporting to parliament on the bullying within the Anti-Corruption Commission. That is simply what I experienced.

My friend Steve Yuen gave me these numbers.

PROF WOODS: Mr Winzer, can you explain how that relates back to the workers compensation issue?

MR WINZER: My slide 1 I hope would be - - -

SLIDE FIVE
MY RECOMMENDATIONS
TO THE PRODUCTIVITY COMMISSION

- 1. DEVELOPMENT OF POTENTIALLY EFFECTIVE PUBLIC INTEREST DISCLOSURE LEGISLATION**
- 2. CONDUCT OF AN EDUCATION CAMPAIGN TO SAVE 'WHISTLEBLOWERS' FROM THE 'ENEMY OF THE PEOPLE EXPERIENCE' AND THUS ENTRY INTO A WORKERS' COMPENSATION SYSTEM**
- 3. PREVENT INVOLVEMENT OF IDENTIFIED 'HIRED GUN' PSYCHIATRISTS IN WORKERS' COMPENSATION**

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PROF WOODS: Yes, your cost benefit down the bottom.

MR WINZER: Yes - would be clear that these costs have to offset good productivity. Without going into a full analysis of it, I hoped it would be clear that if people are being bullied in a workplace they don't work productively. If people make a report about a productivity issue and they are silenced and that productivity issue is not addressed, there has got to be a detriment.

PROF WOODS: Thank you, Mr Winzer.

MR WINZER: These numbers I was given this morning are alarming. These were presented to a standing conference on organisational symbolism in the College of Dublin in 2001 by an Australian firm, Sheahan McCarthy Barker and Henderson. They estimated the overall costs, if you're looking at only a 3.5 per cent prevalence of bullying within organisations across Australia, the costs would be in the order of 5 billion to 13 billion. I'm quite happy for you to take a copy of those numbers.

My last slide is with regard to my recommendations to the Productivity Commission. My first recommendation is development of potentially effective public interest disclosure legislation.

My second recommendation is conduct of an education campaign to save whistleblowers from the 'enemy of the people experience' and thus entry into a workers compensation system. My first recommendation - I said "potentially" because you can have all the legislation in the world in place and it isn't going to save you if there is no commitment. I go back to those principles of integrity, honesty, trust and accountability. I fear, given the lack of help I've had from the current Western Australian government, I have no confidence in the whistleblower legislation bill going through the parliament making any difference.

My third recommendation to the Productivity Commission is to prevent involvement of identified - I call them hired gun psychiatrists in workers compensation. I close today - and I know it is a jaundiced view of things - my recommendations there are really fanciful nonsense because I really don't think things are going to change. That last one - preventing the involvement of identified hired guns - unfortunately, these three I've mentioned have their heirs. Injured Workers Action Support Association - I've seen one of them that the department sent me to - they're just replaced, unfortunately because apparently the money is too attractive for them. I must close, and with that, thank Mr Abbott for this opportunity. Thank you very much.

PROF WOODS: Thank you, Mr Winzer.