

WHO GUARDS THE GUARDS?

AN ACCOUNT OF THE ILLEGAL ACTIONS OF THE WOOD ROYAL COMMISSION INTO THE NEW SOUTH WALES POLICE SERVICE

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INTRODUCTION

BY:

Although the Wood Royal Commission hearings finished some 6 years ago and have been virtually relegated to the legal history books by more recent events, the little known personal and professional ramifications of that enquiry are still being silently felt by many individuals and their families to this day, including myself and many of my former Police colleagues who continue to suffer in silence.

This article is designed to show that in several notable but largely unreported and ignored incidents, the Royal Commission and its investigators acted in a manner that was no better than the allegedly corrupt Police officers they were investigating. It is also designed to provide a form of counterbalance to the lopsided information that emanated from the Royal Commission.

In these and other instances the Royal Commission acted contrary to its own aims, society's expectations and the law as well as being hypocritical in the extreme. They are matters that the people of New South Wales should know about but do not for reasons that can only be speculated.

This article covers several areas, mainly unrelated to each other but each showing the hypocrisy of an organisation whose public face was one of total integrity and respectability.

Since the information that forms the basis of this article has surfaced, attempts have been made by some Government departments and others to cover up and ignore the areas that I have written about.

In order to fend off any criticism that what I am putting forward is somehow wrong, misguided or a personal vendetta or some such thing there are references to primary source documents attached to this article for the reader to follow up, should they choose to do so.

Apart from fabricating some evidence, investigators from the Wood Royal Commission in 1996 provided high-grade heroin to Kings Cross drug dealers that, due to the strength of that drug, led to the death of a number of drug addicts. As the reader may imagine there is no comparable legislation in New South Wales that allows law enforcement undercover units, such as the then Drug Enforcement Agency to supply drugs in this manner.

The double digit suicides of both Police officers and civilians alike that people have forgotten about, that each had a link to the Wood Royal Commission is also worth considering when reading this article.

Although this article specifically examines serious allegations of corruption by certain members of the Wood Royal Commission, it is NOT, in any way, designed to excuse the corruption or malpractice that it uncovered nor does it excuse those individuals eventually charged and convicted with corruption offences.

It is written as an attempt to balance the equation against the hysterical media feeding frenzy and 'moral outrage' that existed at the time of the Commission and which has largely contributed to the latter day perception that the Wood Royal Commission is unable to be criticised.

In acting in the manner that I will outline, the Wood Royal Commission indirectly and directly cost people's lives and left a legacy that will do them, the Justice system and the NSW Parliament no credit.

I make no apology for the length or the detail of this article. It is a complicated story that requires an understanding of the many different parts to make up the whole. I have tried to simplify it the best way I could, but still enable the reader to maintain some interest.

If, at times, I appear to have allowed my personal feelings to overtake the issues, I hope that the reader will understand.

BEGINNINGS

"When the Inquisitor arrived he would...invite all people who wished to confess themselves guilty ...to come forward. Suspect(s) were given a 'time of grace' to denounce themselves. If they did so they were obliged to name and furnish detailed information about all other heretics known to them.

The Inquisition was ultimately interested in quantity. It was quite prepared to be lenient with one transgressor, even if he were guilty, provided it could cull a dozen or more others, even if they were innocent.

Information obtained from informers was noted down in comprehensive detail. An immense database was established to which later interrogations added further documentation. Suspects could thus be confronted with misdemeanours or felonies committed, or allegedly committed, thirty or forty year earlier.

On arriving at a specific locality, Inquisitors installed themselves and began listening to both confessions and denunciations. The system offered an often irresistible opportunity for evening scores, settling old grudges, plunging enemies into trouble. Wives were frequently encouraged to denounce husbands, children to denounce parents.

If an individual was implicated by two other people, an official would present him with a summons to appear before the Tribunal. This injunction would be accompanied by a written statement of the evidence against him. The names of his accusers and of witnesses, though, were never cited."¹

Any person reading this, whether Police officer or civilian, who was unfortunate enough in the mid 1990's to be touched by the Wood Royal Commission into the New South Wales Police Force, whether guilty or innocent, would instantly recognise a somewhat simplistic description of the workings of the Commission as they experienced it.

The above description actually, however, refers to the documented methods of the Inquisitors of the Roman Catholic Church in France and Spain that commenced in those countries in the 13th Century.

Reading about the history and methodology of the Inquisitors generally makes fascinating reading. However the story of the Inquisition becomes more fascinating when these accounts are looked at

objectively in connection with the evidence gathering activities of the Wood Royal Commission in 1995-1996 without the benefit of the 'moral outrage' that was whipped up at the time by a carefully designed media campaign.

The faking of evidence, the enforced betrayal of family and neighbours, mass executions and torture were not only the tools of murderous dictators and Police states. They were also the tools of the Roman Catholic Inquisition and were successfully used against heretics, Protestants and witches, or in fact any group that appeared to threaten the Papacy.

These tactics of the Inquisition have been described as 'a precursor of Stalin's secret police and of the Nazi SS and Gestapo'². As I will outline in this article, the above tools (naturally enough apart from mass executions, although double digit suicides and other deaths resulting from this Commission did occur) were liberally used by the Wood Royal Commission in its pursuit of allegedly corrupt Police officers and other persons.

As for my reference to 'torture' is concerned in the context of the operations of the Wood Royal Commission, it may interest the reader to know that a little known resolution was passed by the United Nations in 1979. This resolution, later adopted by all Australian Police agencies³ into various Codes of Conduct, Mission and Ethical Statements etc was called the Code of Conduct For Law Enforcement Officials⁴.

Of interest to those persons who have had contact with the Wood Royal Commission will be Article 5 of that Code of Conduct which states:

Article 5

No law enforcement official may inflict, instigate or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment, nor may any law enforcement official invoke superior orders or exceptional circumstances such as a state of war or a threat of war, a threat to national security, internal political instability or any other public emergency as a justification of torture or other cruel, inhuman or degrading treatment or punishment .

Commentary:

(a) This prohibition derives from the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly, according to which: "[Such an act is] an offence to human dignity and shall be condemned as a denial of the purposes of the Charter of the United Nations and as a violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights [and other international human rights instruments]."

(b) The Declaration defines torture as follows:

"... torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted by or at the instigation of a public official on a person for such purposes as obtaining from him or a third person information or confession, punishing him for an act he has committed or is suspected of having committed, or intimidating him or other persons.- It does not include pain or suffering arising only from, inherent in or incidental to, lawful sanctions

to the extent consistent with the Standard Minimum Rules for the Treatment of Prisoners."

(c) The term "cruel, inhuman or degrading treatment or punishment" has not been defined by the General Assembly but should be interpreted so as to extend the widest possible protection against abuses, whether physical or mental.

The significance of this Code of Conduct is that by conducting themselves in some of the ways they have, the Wood Royal Commission has not only breached the laws of New South Wales but also at least 4 of the United Nations own articles. In addition, by using their methods they have actually indulged in a form of torture by the standards of the United Nations Code's very own definition.

In this context I would ask the reader to constantly bear in mind three things: -

1. That the investigators of the Wood Royal Commission are by virtue of the Act of Parliament that set up the Royal Commission unaccountable to this day to anyone for their corrupt actions and
2. Consider also this part of the definition of 'corruption' as put forward by His Honour Justice Wood in his final report, particularly when the actions of the Royal Commission investigators are analysed in detail:

"...**corruption**includes participation by a member of the Police Servicean incident of which that member, or any other member:

- Fabricates or plants evidence, gives false evidence or applies trickery, excessive force or threats or other improper tactics to procure a confession or conviction or improperly interferes with or subverts the prosecution process.
- In each case, the relevant conduct is considered to be corrupt, whether motivated by an expectation of financial or personal benefit or not, and whether successful or not."⁵

3. Finally the United Nations Code of Conduct for Law Enforcement officials.

By starting this story with the Modus Operandi of the Inquisition all those years ago, the reader would be forgiven for asking 'well, what has changed in 800 years?' As I intend to show, the answer to that is.....nothing, except that the technology has improved!

WHAT IS A ROYAL COMMISSION AND WHY ARE THEY ESTABLISHED

Before continuing with this story it is necessary to briefly discuss just what a Royal Commission is and why Governments of all persuasions use them.

One interesting train of thought is that Royal Commissions originated in Britain with the establishment of monarchical power. It appears that during the reign of William I commissioners were appointed to inquire into routine problems associated with the securing of the Norman Conquest⁶.

From my limited research there is no real simple definition. Perhaps the best description of a Royal Commission that I have been able to find is as follows:

"Royal Commissions and tribunals of inquiry have long been acknowledged as an accepted tool of Government. They can provide policy advice to Governments or they can investigate and report on major disasters or events that become matters of public concern⁷.

The inquisitorial nature of the inquiry has the potential to harm the reputations of individuals and also to intrude on aspects of their lives that would otherwise have remained private⁸.

Indeed Justice Wood himself, in an address to the International Association for Civilian Oversight of Law Enforcement Conference in Sydney on 6 September 1999 stated that (a Royal Commission) has the "potential to....threaten destruction of the careers of able and corrupt police alike as well as to occasion great personal harm"⁹.

As Professor Geoffrey Lindell writes in his book 'Tribunals of Inquiry and Royal Commissions' in giving an overview of the nature of Royal Commissions "(T)his (being the potential to harm reputations etc) is the case even though the findings of such a body do not have any legally binding status. It is difficult to balance, on the one hand, the legitimate demands of the public right to know, with, on the other hand, the need to protect the privacy of individuals and their reputations from unjustified attacks.

This gives rise to significant issues in the way in which the inquisitorial process is and should be controlled by the legislature and, increasingly in modern times, the Courts as well. (Authors emphasis)
10,,

Former Chief Justice of New South Wales Sir Lawrence Street Commissioner who in 1983 headed the Royal Commission which implicated, but then exonerated the then New South Wales premier Neville Wran has said of Royal Commissions that "A Royal Commission is really an arm of the executive government. The Royal Commission is a mechanism under which the executive government has an investigation carried out on its behalf. It's not a judicial activity at all."¹¹

An interesting independent spin as to why Royal Commissions are in fact introduced can be found in an article in the University of NSW Law Journal for the review of the book 'Royal Commissions and Permanent Commissions of Inquiry' where it was noted by the reviewer that "(G)overnments appoint Royal Commissions for a wide range of reasons. Sometimes they genuinely want an inquiry into and report upon a defined topic or public importance. But often the motivation is ignoble, for example to score points off political opponents or to shelve a controversial issue and thus buy time"¹².

GENESIS OF THE WOOD ROYAL COMMISSION

As most people know, allegations of corruption against members of the New South Wales Police Force (as with the UK's Metropolitan Police, the LAPD, NYPD, Queensland Police Force etc) have been made public for many, many years.

As stated in news reports of the time, there have been "whispers and accusations" about corruption in the NSW Police Force for more than two decades and, despite several attempts to clean it up, the rumours failed to go away¹³.

The 1981 Lusher enquiry into allegations of Police heroin trafficking and conspiracy against individual Police officers, the Nagle enquiry into the Police handling of the disappearance of anti drugs campaigner Donald Mackay in Griffith in 1977, the 1973 Moffitt enquiry into organised crime in licensed clubs and the Blackburn enquiry are to name just a few former commissions of enquiry into different aspects of the New South Wales Police Force.

As to how the Wood Royal Commission went from an idea to reality depends on what you believe. In a newspaper article entitled 'The Whistleblowers'¹⁴ journalist Stephen Gibbs states "Seven men and

women sat around a coffee table on a couple of old lounges and kitchen chairs in the cluttered basement of an inner western Sydney house in early 1994. One was a NSW politician, another his adviser. Two others were detectives, one with her policeman husband and the other with his housewife sister. The last man was a "half-baked hippie" journalist. They had come together for one job: to expose the NSW Police Service as endemically, systemically and hopelessly corrupt. To do what no one else had been able to.

The then Independent MP for NSW's South Coast, John Hatton, who has since retired from politics, had been fighting for a royal commission for 20 years but needed facts, faces and figures.

Veteran corruption fighter and Hatton adviser Arthur King, who was kidnapped by criminals and locked in a car boot in 1973, supplied the home and political nous to help his boss.

Detective Sergeant Kimbal Cook had been threatened with death for exposing crooked colleagues and accused by his bosses of making stories up. His sister Jackie Payne became Hatton's gopher and organiser.

Detective Senior Constable Debbie Locke, another to suffer harassment for reporting corruption, had kept a written record of her experiences and wanted to tell her tale. Her husband Greg agreed, despite the risk to his career as a serving detective.

The journalist, who still wishes to remain anonymous, wanted justice and a good yarn. They were not organised, not powerful, and apart from Hatton and King, inexperienced in the political backroom badgering they would need to do to get the royal commission they wanted. But during the next two months, in a series of secret meetings, late-night phone calls and after hundreds of hours of work, they would arm Hatton with the ammunition he needed".

Regardless of just how the Royal Commission was originally formulated and who wants to take credit for it, the matter eventually came to a head on the 12th May 1994, when, spurred on by allegations of Police corruption at 'senior levels' by the Independent Member for the South Coast John Hatton¹⁵, the then Liberal/Coalition NSW Parliament voted to set up the Police Royal Commission.

The main thrust of the Hatton corruption allegations were mainly directed this time at the State's Detectives, particularly the old C.I.B. According to Justice Wood himself '(B)y that time (1994) at least in certain circles of the media and among those practising at the criminal bar there was a strongly held belief as to the existence of strong links between crime figures and sections of the Service (read 'Detectives')...'¹⁶

As it transpired this particular Royal Commission was to be the first in New South Wales to have corruption as a term of reference¹⁷.

In looking at the late 80's Queensland Fitzgerald Enquiry it is apparent that it had different origins to the Wood Royal Commission. There the Labor Party pushed for an inquiry in the hope that it would gain political advantage. The Wood Royal Commission was, however different in that both sides of the political fence were persuaded by John Hatton and others that the New South Wales Police were 'out of control'¹⁸.

Leading up to the vote it had been argued in Parliament that there was no need to establish a separate Royal Commission, that the Independent Commission Against Corruption should be the organisation to investigate these latest allegations by Hatton due to the fact that the ICAC was in fact a 'standing royal commission'.

Concerns were expressed at the time over the then Government's future commitment to the ICAC as well as allegations concerning the ICAC's unsatisfactory handling of evidence from some former whistleblower Police officers¹⁹; however these arguments did not succeed and the Royal Commission was born.

The day following this vote the Premier, Mr John Fahey announced in Parliament that His Honour Justice James Wood of the Supreme Court had been appointed as Royal Commissioner into the New South Wales Police Force. Justice Wood had been appointed to the Supreme Court in 1984, having been appointed as a Queens Counsel in 1980.

The new Royal Commissioner was initially authorised to investigate matters relating in substance to:

- the existence, or otherwise, of systemic or entrenched corruption within the New South Wales Police Service (the Service);
- the activities of the Professional Responsibility Command;
- the system of promotions in the Service;
- the impartiality, or otherwise, of the Service in relation to the investigation and prosecution of criminal activities including, but not limited to, paedophile activity; and
- the efficacy of the internal informers policy of the Service²⁰.

At the time of this appointment by the Premier he stated (somewhat prophetically as events transpired) that "(N)othing must be allowed to weaken our commitment to the highest standards of integrity within our justice system"²¹.

As will be seen, maintaining the 'highest standards of integrity' by the Royal Commission investigators, as specified by the New South Wales Premier was not to be the case.

RECOGNISED CRITICISMS OF ROYAL COMMISSIONS

As stated in a book by Mr Desmond McDonnell²², "The history of Royal Commissions and Committees of Inquiry in New South Wales, as elsewhere, has involved a number of what are now standard criticisms associated with:

1. The cost-benefit ratio, perhaps the first criticism in a managerialist climate and one shared by the public media and state officials alike;
2. The narrowness, or unmanageable breadth, of the terms of reference of the inquiry;
3. The assumed impartiality of the chairperson and committee members;
4. The dominance of a judicial perspective;
5. In relation to primary institutions of state, the damage to public confidence by revelations of mismanagement or corruption;
6. The criticism that committees of inquiry represent a tactical device to defray government action;
7. The absence of control over the implementation of policy following the submission of recommendations by committees of inquiry. (It is interesting to note responses to the conventional 'hands off' policy expected of the members of a committee of inquiry after the submission of its report. In an interview with Justice Nagle in 1997 he confessed that he took no particular interest in the State's prison system after the submission of his Report, and in fact did

not look at a copy of the document until 15 years later, when asked to give an address on the Royal Commission from an historical perspective. However Justice Wood in relation to the Royal Commission he chaired has taken a different approach. As recently as September 1999 he addressed a conference sponsored by the New South Wales Police Service in which he gave an extensive commentary on the recommendations of the Royal Commission into the New South Wales Police Service);

8. Formal studies of committees of inquiry, for example the collection of essays, *Social Research and Royal Commissions* edited by Martin Bulmer (1980) have drawn attention to the questionable validity of the research of parliamentary committees in terms of systematic research procedures and the theories of social science.
9. But perhaps most significantly from an historical perspective is the criticism that commissions of inquiry perform a primarily rhetorical function legitimizing state institutions following crises in community confidence. The study of the reports of commissions of inquiry on law and public order in Britain, by Burton and Carlen (1979) is a strong example of this critique. In their view, such commissions and committees of inquiry are to be seen as: *...representing a system of intellectual collusion whereby selected, frequently judicial, intelligentsia transmit forms of knowledge into political practices. The effect of this process is to replenish official arguments with which established and novel modes of knowing and forms of reasoning. By linking state functionaries with the lay intelligentsia official discourses on law and order become one part of the constant renewal. They are one practice amongst many in the process of reproducing specific ideological social relations. (Burton and Carlen 1979:7-8)*

But such arguments are usually countered in the literature by reference to those recommendations that have been implemented and the guidance provided by lay experts rather than State professionals²³.

However, by the documented illegal methods of the investigators attached to the Wood Royal Commission several other criticisms can now be added to this impressive list:

10. Unaccountability to anyone for illegal actions
11. Abuses of Human Rights
12. Fabrication of evidence

ROYAL COMMISSION (POLICE SERVICE) ACT 1994

The Act that created the Wood Royal Commission, The Royal Commission (Police Service) Bill, was eventually assented to by His Excellency the Governor on the 1st November 1994²⁴.

Apart from providing the legislative framework and guidance for the Royal Commission, there was one little known aspect of the new Act which dealt with the powers of the Royal Commission evidence gatherers, the actual investigators.

These investigators were all drawn from law enforcement agencies outside New South Wales. This followed a debate in the Legislative Assembly on the 11th May 1994 in which John Hatton called for these investigators to be provided to the Royal Commission from outside the State of New South Wales.

The Coalition Government opposed this motion by Mr Hatton but as the Government did not, at the time command a majority in the Assembly, the motion passed when the other independent members of the Assembly voted with the Opposition. The debate lasted nearly nine hours²⁵.

It transpired that part of the reason for the insistence of investigators outside New South Wales to work for the Royal Commission came about because any New South Wales investigators seconded to the Commission would eventually return to the institution they were investigating²⁶.

I would also suggest that John Hatton's comments to the New South Wales Parliament on the 11th May 1994²⁷ that 'the (NSW) Police Force is out of control is beyond question' would have been the other underlying reason to prevent New South Wales Police officers from joining the Wood Royal Commission.

This comment by Hatton stemmed from information regarding the alleged surveillance of politicians by members of the CIB's Observation Squad commencing in the late 1970's. When reading the Hansard associated with this you can sense the outrage by Hatton and the need to 'get square' with the Police.

Within the Royal Commission (Police Service) Act 1994, Section 37K can be found. This section, apart from conferring on these interstate Royal Commission investigators all necessary functions of a member of the New South Wales Police Force (no doubt assisted by a form of Memo of Understanding to other Police Forces), also prevents any complaints being made by anyone about the actions of the investigators while working with the Wood Royal Commission:

Commission investigator who is seconded police officer to have all powers of NSW police officer

37K. (1) A Commission investigator who is a seconded police officer has and may exercise all the functions (including powers, immunities, liabilities and responsibilities) that a police officer of the rank of constable duly appointed under the Police Service Act 1990 has or may exercise by or under any law (including the common law) of the State.

(3) A Commission investigator has and may exercise those functions by virtue of this section only when acting in the person's capacity as an officer of the Commission.

(4) This section does not operate to subject a Commission investigator to the control and direction of the Commissioner of Police or any other police officer when acting in the person's capacity as an officer of the Commission.

(5) A complaint about the conduct of a Commission investigator when exercising the functions of a police officer may not be made under Part 8A of the Police Service Act 1990.²⁸

As seen below Part 8A of the then Police Service Act 1990, which applied to the Wood Royal Commission investigators, shows the areas for which complaints against New South Wales Police officers can be made, and which, under Section 37K of the Royal Commission (Police Service) Act 1994, the Royal Commission investigators cannot receive those complaints.

(NSW) POLICE SERVICE ACT 1990

PART 8A - COMPLAINTS ABOUT CONDUCT OF POLICE OFFICERS

Division 1 - Preliminary

- 121. Definitions
- 122. Application of Part to certain complaints
- 123. Application of Part to former police officers
- 124. Application of Part to anonymous complainants
- 125. Relationship with Police Integrity Commission Act 1996

Division 2 - Procedure for making complaints

- 126. Right to make complaint
- 127. Making of complaints

Division 3 - Complaints information system

- 128. Complaints information system
- 129. Registration of complaints

Division 4 - Reference of complaints between authorities

- 130. Complaints received by Commissioner
- 131. Complaints received by Police Integrity Commission
- 132. Complaints received by Ombudsman
- 133. Complaints lodged at Local Courts
- 134. Complaints referred by ICAC or NSW Crime Commission
- 135. Complaints referred by Minister
- 136. Complaints made by Member of Parliament
- 137. Multiple handling of complaints
- 138. Action on complaint not affected by failure to comply with Division

Division 5 - Investigation by Commissioner

- 139. Decision of Commissioner as to investigation of complaint
- 140. Decision of Ombudsman as to investigation of complaint
- 141. Factors affecting decision as to investigation of complaint
- 142. Ombudsman may request further information from complainant
- 143. Ombudsman may request further information from other persons
- 144. Investigation of complaints
- 145. Conduct of investigation
- 146. Ombudsman may monitor investigation
- 147. Ombudsman's and Commissioner's reports to complainant
- 148. Proceedings to be instituted if warranted
- 148A. Alternative dispute management procedures may be used if warranted
- 149. Other police investigations not affected

Division 6 - Procedures following investigation by Commissioner

- 150. Information to be sent to complainant and Ombudsman
- 151. Ombudsman may request information concerning complaint and conduct complained of
- 152. Ombudsman may request information concerning investigation of complaint
- 153. Ombudsman may request further investigation of complaint
- 154. Ombudsman may request review of Commissioner's decision on action to be taken on complaint
- 155. Ombudsman may report on Commissioner's decision on Ombudsman's request

Division 7 - Investigation by Ombudsman

- 156. Investigation of complaint under Ombudsman Act 1974
- 157. Report following Ombudsman's investigation
- 158. Notification of proposed action on reports
- 159. Investigation of conduct not the subject of a complaint

Division 8 - Additional provisions concerning Ombudsman

- 160. Inspection of records and special reports to Parliament
- 161. Publicity

- 162. Consultation with Minister
- 163. Ombudsman not to publish certain information
- 164. Application of section 34 of Ombudsman Act 1974
- 165. Ombudsman and officers of Ombudsman not competent or compellable witnesses in respect of certain matters
- 166. Limitation on delegation of functions by Ombudsman
- 167. Exercise of Ombudsman's functions by officers of Ombudsman
- Division 9 - Miscellaneous**
- 167A. Offence of making false complaint about conduct of police officer or giving false information
- 168. Police Integrity Commission may take over Category 2 complaint
- 169. Provisions relating to reports furnished to Parliament
- 170. Certain documents privileged
- 171. Part not to affect police officers' other powers and duties
- 172. Use of Federal and interstate police for investigations

In addition to the above protection afforded the Royal Commission investigators under Section 37K of the Act, complaints about their actions could NOT be made to their parent Police Forces at the time or after their return to their home Force due to the fact that they were not under the command or control of their respective Police Commissioner at the time of their service at the Wood Royal Commission.

As an example of this I received a letter from the South Australian Police Complaints Authority in which I was informed ".....(A)t the time the officer conducted the investigation you complain of he was not acting pursuant to the laws of this State nor at the direction of the Commissioner of SAPOL."²⁹

In a further response to another letter from us, an officer of the NSW Ombudsman's office further stated "..... (T)his office does not have jurisdiction over the conduct of Royal Commission investigators."³⁰

When the fabrication of the evidence was uncovered during our committal in 2001, a complaint of a crime (i.e. perversion of the course of Justice) was reported to the New South Wales Police.

As a result a letter was later received from the Special Crime and Internal Affairs Command of the NSW Police Service whereby a decision was made NOT to investigate the allegations under Part 8A of the NSW Police Service Act 1990.

It was stated in that letter "(T)he officers you have complained of are not attached to the NSW Police Service as they were Royal Commission investigators, which *given their need for objectivity*, remained separated from the Police Service (Authors italics)"³¹

It appears that the Royal Commission investigators occupied some special status, which is not available to other citizens, Police officers or even politicians.

Even the Commonwealth Justice Minister, Chris Ellison appears not to be aware of this situation either when he claimed in an interview on the 'Sunday' program that no one is above the law in Australia³². When reading Section 37K this is plainly incorrect.

Senator Bob Brown, Leader of the Australian Greens is also under another mistaken belief, when he discussed the ASIO Bill on SBS television on the 12th June 2003 when he stated that Royal Commissions are somehow accountable to the public. Plainly Section 37K indicates that they are not³³.

Finally the Crown Prosecutor at our later committal Mr Ingram QC inadvertently summed up this situation of there being no accountability for the Royal Commission investigators when he said "It is a sad state to have the evidence in the state it is in. But that is where it is. And one might well ask: 'Who guards the guards?'³⁴"

Indeed, who guards the guards!

INVESTIGATIVE STRUCTURE OF THE WOOD ROYAL COMMISSION

The structure of the Wood Royal Commission needs to be looked at due to the undeniable fact that the Royal Commission investigators who fabricated the evidence in the matter of the Kareela Cat Burglar case could not have acted alone or without the support of senior members of the Commission.

In the early 1990's I investigated both Chinese and Italian Organised Crime in similar multi disciplinary environments and structure to that which comprised the Wood Royal Commission, namely the Queensland Criminal Justice Commission and the Sydney National Crime Authority.

Each of these multi disciplinary agencies had as their team leaders, lawyers and I recall, particularly at the CJC that each of the organised crime teams would brief the team leader each morning as to the progress and status of the own investigations and what their activities were for that particular day.

In a highly charged environment such as the Wood Royal Commission, with politicians, the public and media watching every move, it is inconceivable that the investigators who fabricated the Kareela Cat Burglar prosecution and at the same time ignored favourable and supportive independent evidence were merely renegade investigators going off and doing their own thing.

Although the inner workings of the Wood Royal Commission are not publicly well known there is some evidence available that enables the pieces of the internal structure of the Royal Commission as far as its investigative role is concerned, to be identified.

A letter from the Senior Counsel Assisting the Royal Commission, Mr Garry Crooke QC³⁵ provides that information:

"The Commission adopted a multi disciplinary team model for the conduct of its investigations. Each team comprised six investigators, two criminal analysts, two financial analysts, three solicitors and research and support staff. Teams were led by one of the Counsel Assisting the Commission, who consulted with me (Crooke).

Guidance and support for the investigations carried out by the teams was offered by the Director of Operations (Commander Nigel Hadgkiss and later Commander Bruce Onley) together with the Chief Investigator (initially Superintendent Onley and thereafter Superintendent Provost both members of the AFP).

The teams operated with a degree of autonomy in the conduct of investigations. Team leaders were responsible for the preparation of brackets of evidence to be led at hearings of the Commission. In this role Team Leaders were responsible for setting investigative priorities.....The success of investigations depended greatly on the initiative and ability of the police working in the team environment."

In discussing the issue of Royal Commission staff in his address in 1999 Justice Wood made the comment that "(I)t goes without saying that the *level of skill and integrity* of Royal Commission staff will determine its successes. *Recruitment and positive vetting are essential*" (Authors italics)³⁶. As shown later in this article, 'positive vetting' did not always occur as one of the investigators who prosecuted us was himself mentioned in the Queensland Fitzgerald Enquiry in 1987.

As a further illustration of the hierarchy of the Royal Commission Justice Wood himself stated that the Commission worked as follows³⁷:

- **Royal Commissioner**
Justice James Wood
- **Senior Counsel Assisting**
Crooke GW QC - 25/5/94 -
- **Counsel Assisting**
Black JW QC - 1/6/94 - 3/4/97
Agius J SC - 1/6/94 -
Bell V - 6/6/94 - 10/4/97
Bergin PA - 19/4/95 -
- **Operations Directorate**

Hadgkiss N
(Director) 27/6/94 - 22/12/95
Onley BR
(Director, previously Chief Investigator) - 11/7/94 - 9/1/97
Provost B
(Chief Investigator) - 11/12/95 - 4/4/97
- **Teams comprising:**
 - **Counsel**
 - **Solicitors:**

Alvos BH	18/4/95	
Andersen L	5/12/94	4/2/97
Burrows JA	15/8/94	31/3/97
Byrne MJ	15/8/94	31/3/97
Clarke WJ	19/6/95	31/12/96
Coultas AJ	13/5/96	10/1/97
Denman G	15/8/94	31/3/97
Drennan GA	22/2/96	3/1/97
Haigh KA	12/12/94	23/8/96
Kenna R	7/8/95	
Maitland RJ	13/2/95	31/3/97
McKenzie DJ	2/11/94	31/3/97
O'Brien MM	19/12/94	
Scott SM	8/8/94	5/7/96
Stevens DB	23/1/96	31/3/97
Stewart AG	27/3/95	4/2/97
Tuck AJ	12/12/94	31/3/97
Walker BM	8/8/94	31/3/97
 - **Investigators:**

Clarke J	23/9/94	12/12/94
Craig DR	20/3/95	28/2/97
Creef A	27/3/95	14/1/97
Da Re M	18/4/95	7/4/97
Dale TL	14/8/95	
De Santo PE	14/9/94	28/2/97
Ellis JL	24/11/94	8/2/96
French PR	26/9/94	15/11/96
Gregor AM	5/9/94	31/3/97
Harrison SL	5/12/94	6/3/96
Homberg MI	18/9/95	13/1/97
Hutson PJ	27/3/95	30/12/96
Johnson LM	17/7/95	14/3/97
Jones J	17/7/95	
Little CA	15/9/94	18/1/97
McGinlay DH	16/1/95	20/12/96
McGinlay DL	16/1/95	27/9/96
McGreevy M	23/11/95	25/11/96
Miller KJW	29/7/94	
Moseley GG	16/1/95	1/1/97
Murphy GG	31/10/94	6/11/95
Prospero M	15/3/95	
Riviere HF	11/3/96	25/3/97
Russell VA	26/8/96	28/2/97
Smith BR	19/9/94	13/12/96
Stevens PA	14/8/95	
Sutton RJ	28/2/96	
Taggart PJ	26/9/94	10/1/97
Taylor WD	18/9/95	28/2/97
Torrance IF	20/7/94	
Van Gyen AL	18/4/95	13/7/95
Voyez MJ	29/4/96	31/3/97
Yates MW	6/3/95	29/3/96

□ Paralegals

He also stated that there were three independent teams working on the Police Corruption reference with support being found in the form of Support and Administration, Surveillance Teams and Technicians, Information Technology, Administrative Staff and Registry³⁸.

Justice Wood stated that the teams worked on individual references, chosen by Senior Counsel Assisting and the Royal Commissioner, upon the basis of information received as to likely targets³⁹.

The role of Senior Counsel Assisting as tactician, overall co-ordinator of investigations and arbiter as to priorities for surveillance and analytical services, was critical. In addition, his presence enabled the Royal Commissioner to remain independent of the day to day investigative work⁴⁰.

The role of Chief Investigator was also important in acting as an adviser to Counsel Assisting and team leaders, in investigative techniques and opportunities, and in ensuring the availability of the surveillance and investigative staff needed⁴¹.

The teams worked separately, save where there was some cross over involved, or where a particular operation required additional resources. The investigators were all recruited from external law enforcement agencies, being seconded from their present agencies for the term of the Commission⁴².

INTIMIDATORY TACTICS OF THE ROYAL COMMISSION

It seems that intimidation and harassment were tools of trade and well practised by some Royal Commission investigators.

It was no secret at the time that officers of the Royal Commission would visit witnesses homes at Christmas time, wedding anniversaries, children's birthdays etc to issue summonses for to them to appear at the commission. This was done with only one thing in mind.

The whistleblowers in our own case were kept on a string to make sure they gave the evidence that was required. In the case of one of the whistleblowers, members of the Royal Commission who were questioning him supplied him with answers. This can be heard on the tape of that interview and implies that the Royal Commission investigators, at least in this case, knew they were safe from any action that could be taken against them.

Later, the Commission investigators returned to this rollover witness accompanied by a Commission Lawyer. This witness was told that he was going to gaol for 14 years, that he would not see his family and that one of the main Police witnesses had rolled over when that was not in fact the case. They then proceeded to outline to this witness a version of the Kareela Cat Burglar macing incident, which was adopted.

The bulk of the threats were made off tape and proceeded over several days. At a later stage, he was advised that he would not receive a Hurt on Duty pension unless he repeated the evidence that he had given before the Royal Commission.

During cross examination at our committal it was discovered that his statement had been prepared for him by the Commission Investigators with the procedure being that material, suitable to the Commission, was extrapolated from the taped interview into a narrative statement in the form of a statutory declaration.

In the course of his evidence this witness indicated that his statement contained material not said by him and he signed it after being threatened. He also conceded that he had "great fear" at the time and that he had been tricked.

In addition this witness had applied for a Hurt on Duty pension and had been told that the decision was being held up until he gave his evidence against the us.

One well-known story of Royal Commission intimidation tactics was that of a police officer serving a gaol sentence at Berrima gaol that was visited by officers of the Royal Commission. He was asked to provide information regarding alleged corruption in his area and he informed them that he could not help them. He was then transferred straight to Goulburn Gaol among murderers, rapists and armed robbers. I can safely say that this transfer to Goulburn was not for the good of his health.

It appears that he was told by other prisoners to stay in his cell and not come out. After a short time he was transferred away from Goulburn.

The question must be asked however, what if he had been killed or taken his own life while at Goulburn? Who would be responsible? As we will see, the Royal Commission cannot be held accountable.

MEDIA COVERAGE DURING THE COMMISSION

As those of us who have had the experience of appearing before the Royal Commission would know that the media played a decisive, intrusive and one-sided role in the day to day hearings. In his book 'The Electronic Whorehouse'⁴³ Paul Sheehan aptly described the news media's 'ingrained conditioning to rush towards the smell of blood'⁴⁴ and the media certainly smelled blood during the Royal Commission.

Many of us would remember the sexually explicit videos played on national television concerning the corrupt activities of certain officers that were designed for maximum intimidation with little or no consideration given to the effects on family and friends of the officers concerned, regardless of these alleged 'illegalities'.

In commenting on this incident one respected newspaper journalist stated that "(T)he release of the video to the media in December 1985 guaranteed it would lead that night's television news. It was great theatre but also the ugliest act of the Royal Commission"⁴⁵.

Promotion of the Wood Royal Commission was heavily dependent on leaking material to certain 'favoured media representatives' to ensure sensational coverage which in turn drew attention to the Commissions hearings and its work. It tended to be very much a 'name and shame' process, which was designed to maximise the potential discomfort of corrupt officers and seek to force them to come forward⁴⁶.

It was always clear when something spectacular was about to occur in the hearings because there would be many extra media representatives present, compared to an 'ordinary' day⁴⁷.

But at the end of it all, the main problem with the media 'frenzy' that prevailed during the Wood Royal Commission was that allegations that received blanket media coverage were often left in the air for a long time before those accused had the opportunity to rebut them. For many of those accusations there has been no rebuttal.

It was a matter of yesterday's headlines, tomorrow's fish and chip wrapper.

END OF THE SYDNEY C.I.B.-COMMENCEMENT OF THE REGIONAL CRIME SQUADS.

For the story to make any sense it is necessary for our story to shift to a former time in the history of the New South Wales Police Force, some 11 years before the Royal Commission was established.

By way of background the Detective Force of the New South Wales Police Force, up until 1983 comprised, apart from the suburban Detective contingents, fully centralised squads of experienced Detectives located within the Criminal Investigation Branch in Sydney. These squads covered areas as diverse as Consorting, Homicide, Armed Hold Up, Drug, Breaking etc.

For various reasons the centralised C.I.B. commenced its dismantlement in 1983, being broken down to 'regional' crime squads.

The first of the Regional Crime Squads was based in western Sydney at Penrith earlier that same year with the second of the Regional Crime Squads being based at Miranda in the Sutherland Shire, south of Sydney, in November 1983.

The Regional Crime Squads were microcosms of the larger, centralised C.I.B. and were initially composed of smaller specialist Squads, such as the Armed Hold Up Squad, the Motor Squad, Drug Squad etc with the exception of the Homicide Squad which still, at that time, remained centralised in town.

As I was a member of the Special Breaking Squad at the C.I.B., but living in the southern suburbs I found myself as one of 6 Detectives transferred from town to serve as a member of the newly formed Regional Crime Squad, South, Breaking Unit.

Our role as members of the Breaking Unit, RCSS was exactly the same as our role in our parent Squad, namely to investigate any attack upon a safe; explosions involving the deliberate attack upon persons or property as well as breaking offences over a certain value or offences of a similar nature, that is serial offences.

It was by virtue of this latter category that we became involved in the Kareela Cat Burglar enquiry.

CAT BURGLARY OFFENCES IN THE KAREELA AREA

1984! In writing this story one is tempted to make Orwellian analogies about "Big Brother", however that is something I will refrain.

But it was the year that Ronald Reagan was re-elected President of the United States despite the on going Iran/Contra hearings. Bob Hawke was into his second year as Prime Minister and the Coalition Opposition Leader, Andrew Peacock, together with his deputy, John Howard were looking at another 12 years in Opposition. It also saw the deaths of Indira Gandhi, Marvin Gaye, Count Basie and Ethel Merman

Our prime time television in Sydney for that year was the 'Dukes of Hazzard' and 'A Country Practice', the book 'Hunt for Red October' was published, Doug Mulray was still the breakfast legend with 2MMM and there were 67 reports of humanoid encounters in the world which were described as 'spread out and bizarre in nature'⁴⁸.

In that same year some of us in the Breaking and Armed Hold Up Units of the Regional Crime Squad South were to have our own particular type of close encounter, however this was with a criminal that was to change our lives.

Earlier that year we became aware of the activities of a so-called 'cat burglar' operating in the Sutherland area, mainly in a suburb known as Kareela.

Kareela, which means either 'fast' or 'place of trees and water' was (and still is) a very attractive suburb in the Shire, being bordered by Jannali, Kirrawee, Gymea and Sylvania Heights. There is a large amount of bushland with well built, maintained and (even in 1984) expensive homes. It also has one of the Sutherland Shires finest golf courses which is bounded by 2 main arterial roads, Bates Drive and the Princes Highway and largely figured in the activities of the Kareela Cat Burglar.

Although as a unit we were generally kept aware of the activities of this particular criminal by completed Crime Reports being sent to us by the local Detectives, we were not then largely involved in

any operation to assist the local Police effect his arrest. Our role was largely confined to maintaining a 'running list' of the robberies.

It later became apparent that our sidelining in the Kareela Cat Burglar enquiry came about from the later admissions of the Sutherland based Detective Sergeant in charge that he was actually jealous of our involvement and did not want to share any of the perceived 'glory'. This jealousy later manifested itself at the Royal Commission when he saw this as an opportunity to exact revenge and became one of the star 'rollover' witnesses.

In plotting and analysing the numerous robberies committed by this offender in the Kareela area, it indicated to us that he was a cunning and experienced criminal and in all likelihood had had previous experience in these types of offences.

As an example of his experience at the game, while inside a victim's bedroom on several occasions, he spoke to them if they were woken up while he was there. He would pretend to be their son coming home late and reassuring his parents that he was OK.

This act alone required considerable nerve on the offenders part and indicated that we were dealing with a very professional offender.

I recall one theft by this offender where a victim had placed his wallet on the bedside table with some loose change on top. The thief was able to steal the wallet from under the loose change with the victim sleeping inches away.

After being robbed by this individual some victims had to sell their homes or move their children into their bedrooms to sleep due to the strain placed on them by this person being at large in the community. Little girls sleeping in their beds sometimes woke up to see a man sitting on the edge of their bed, with his face covered⁴⁹. As was said at the time, the horror that these little girls experienced because of seeing this can only be imagined.

The offender also removed car keys from inside people's homes and stole their motor vehicles to effect his escape.

Despite increased Police activity in the area, consisting of uniformed and Plain Clothes patrols and stakeouts of the Kareela area, particularly the Golf Course, the offender remained at large.

To give an indication of the seriousness that the burglaries at Kareela were regarded Judge Harvey Cooper later commented that "*...(T)he whole criminal enterprise, is not only of a considerable magnitude, not only of an extreme gravity, but also of professional skill, planning and organisation.*"

ARREST OF 'JOE PACE' BY SUTHERLAND POLICE

We now move to the night of Thursday 28th June 1984. By this stage the offender had committed something like 115 'cat burglar' offences in the Sutherland-Kareela area, valued in excess of \$400,000.

On this particular night, an operation involving neighbouring Divisional Detectives, uniform Police and the Dog Squad was mounted. It was planned that a number of Police vehicles were to be placed in strategic positions to carry out surveillance of the Kareela Golf Course area, with other Police detailed to perform foot patrols of a selected area. The area around The Esplanade, Christina Place, Freya and Solo Streets was also cordoned off⁵⁰.

About 3.10am on the morning of Friday 29th June, 1984 a flashlight was seen between houses in Freya Street, Kareela. Police were alerted and surrounded the area and in effort to flush the offender from his hiding place, the Police vehicles activated their blue flashing lights and sirens which was a clever piece of work. With the assistance of the Police Dog Squad, the offender was finally arrested in the area of Solo Street.

When this individual was searched he was found to be in possession of \$67 in cash, pieces of a local street directory and in a shoulder bag located in the near vicinity were found housebreaking implements including screwdrivers, a torch, surgical gloves, green garbage bag etc. This individual gave his name to the arresting Police as 'Joe Pace', with his address as being 'Mars'!

He was taken to Sutherland Police Station where he was charged (at that time) with one count of Break Enter and Steal resulting from the cash found in his possession when he was arrested, together with 1 count of break and enter with intent and 1 count of possession of housebreaking implements. He refused to be fingerprinted by Police and was taken to the Sutherland Local Court later that same day where he was remanded by the Magistrate in to Police custody at Sutherland Police Station cells until such time as his fingerprints were taken.

On the day of the arrest word filtered back to us at the Crime Squad that an offender had been arrested by the Sutherland Police for the 'cat burglar' thefts but was being unco-operative by refusing to tell Police his name or to be fingerprinted.

Members of the Regional Crime Squad met with the Detective Sergeant in charge of the enquiry later that day and, in accordance with recognised protocols, requested his permission to interview this person the following day regarding the numerous other 'cat burglar' offences that had been committed in the Kareela area over a period of time.

OFFENDER BARRICADED IN INTERVIEW ROOM-TEAR GAS USED TO EXTRICATE HIM

On the morning of Saturday 30th June, 1984 I went with my partner Detective John Davidson to the Sutherland Police Station where the offender was removed from the cells and walked across the road to the Detectives office.

As he was being ushered into the Detectives office for our interview and after having the handcuffs removed from him, he swung a punch at me that narrowly missed. He then ran into a nearby inside interview room and barricaded himself in that room with the aid of an office desk. The outer door could only be opened fractionally as the offender had levered the desk in such a position to prevent the door from opening fully.

At that same time, other members of the Regional Crime Squad had arrived at Sutherland Police Station to obtain petrol for their Police vehicle while en route to execute a Search Warrant on an address at Sylvania. These Police from the Armed Hold Up Unit consisted of the then Detective Sergeant Brian Harding in company with Detectives John Garvey, Steve Allen and Steve York.

One other purpose for their visit to the Detectives office was to attempt an identification of the then unknown individual who had taken to calling himself 'Joe Pace'.

When the offender barricaded the room, the assistance of these additional Regional Crime Squad Police was sought by those of us in the main Detectives office. A decision was made by Brian Harding, who was also a Field Commander with the Special Weapons and Operations Squad, to use the chemical irritant 'Mace' to effect the removal of the individual from the room.

This decision was based on several issues, not the least of which was the safety of the offender and the officers attempting to remove him from the room. Anyone with experience of Police interview rooms over the years would know that objects and articles accidentally left in there have the potential to be used as weapons.

Some of the members of the Regional Crime Squad were also part time members of the Special Weapons and Operations Squad, who, in addition to their day to day Crime Squad activities, were required to attend to siege or hostage situations.

To that end some of the Crime Squad vehicles were equipped with gear such as the chemical irritant 'Mace' (or CS as it was known as) for use in such dangerous situations. The vehicle used by these additional members of the Crime Squad who came to our assistance was equipped with such gear.

Detective Garvey sprayed the person Pace through the small opening of the door. This caused Pace to release his grip on the table and enable those of us outside the room to enter it and secure him. Once the person 'Pace' was outside the room a senior independent NCO was summoned to the Detectives office, in accordance with Police Rules and Instructions at the time, to speak to 'Pace' and remove any perceived inducement he may have had concerning the macing incident and in participating in interviews with us.

It was during this conversation with this senior NCO that his real identity as John YM 1 was revealed. He was then interviewed by Detective John Davidson and myself for some hours during which he confessed to many so called 'cat burglar' crimes that he had committed in the Kareela area between July, 1983 and June 1984.

The fact that he refused to sign our interview did not perturb us greatly. This was a well-known ploy of experienced and hardened criminals and enabled them to 'leave the gate open' to make unfounded allegations when they later appear at Court in an attempt to beat the charges.

It also did not concern us because YM 1 told us of many pertinent facts in that interview that only he could have known and which were later corroborated.

After the interview was completed YM 1 agreed to accompany Davidson and I to the Kareela area and indicated the approximate area where he was arrested the night before in order to try and locate a balaclava he was wearing and had dropped in the early hours.

While I remained with YM 1 at the Police vehicle John entered the bushland and some time later returned with a fawn-coloured balaclava. This particular balaclava was later identified by several civilian witnesses as the one worn by YM 1 prior to his arrest.

YM 1 was returned to Sutherland Police Station where, after attending to necessary paperwork, he was returned to the cells and fingerprinted by uniform staff. He was later charged at his next Court appearance with a large number of breaking offences relating to the incidents in Kareela.

YM 1 @ 'JOE PACE'-CRIMINAL ANTECEDENTS

The person YM 1 was an obnoxious bastard to deal with. He was egotistical, arrogant, intelligent and cunning. In my dealings with him, I would also add ruthless to these descriptions.

Although claiming to be an English public schoolboy, later attending Geelong Grammar School and associating with the rich, influential and famous, YM 1 had another side to him as 'The Cat' or the

'Toorak Cat' with a lengthy criminal career both in New South Wales and in Victoria commencing there in 1958.

His main criminal convictions involved burglary and housebreaking, with 2 counts of possessing an unlicensed pistol. His second recorded criminal offence on his Victorian Police Docket Sheet involves housebreaking, larceny and indecent assault on a female under 16 years.

During these burglaries, YM 1 literally terrorised the affluent Melbourne suburb of Toorak in the early 1970's by undertaking 'cat burglary' offences. He claimed to Police at the time to have committed between 800 and 1,000 burglaries on members of the Jewish community with the total amount of property stolen by him amounting to some \$1 million⁵¹.

In these activities YM 1 equipped himself with an elaborate kit in the form of a bandolier consisting of a pencil torch, spare batteries, clothes pegs for pegging back curtains and blinds, a reel of cotton and a hook and cutting implements.

On some occasions he would strip completely naked and hose himself down to slide through toilet windows and after gaining entry would dress inside the house. Once inside he would plan his exit by leaving open a rear door, propped open with a cushion.

One interesting side issue which shows the thought he put into his work was that if YM 1 drove his car to any of these burglaries he would park it outside a 2 mile radius from the scene. He considered (probably correctly) that any roadblock put up by Police would be within a mile radius and he stood a better chance of escaping to his car on foot.

He also bragged that once inside a house, especially the bedroom he learned to tell by the breathing of the sleepers how long they had been asleep and how deep was their slumber!

At the time YM 1 told members of the Victorian C.I.B. that he gained a great deal of satisfaction out of causing the Victorian Police embarrassment over these 'cat burglar' robberies. His reasoning for this satisfaction gives an insight into the type of individual he was.

In 1959, he broke into a hospital in St Kilda and in the course of this offence, he placed his penis into a baby's mouth. The child's natural instinct was to suck and as a result of this action YM 1 ejaculated into the baby's mouth with this action nearly causing the child to choke. YM 1 was then disturbed by a night sister and ran from the scene. He was later identified by virtue of his fingerprints and arrested by Police at St.Kilda.

After his arrest, he claimed to have received such a 'hard time' by the Police from St.Kilda that he swore vengeance against the Police, which supposedly commenced his career as a 'cat burglar'⁵². Naturally, the Police are yet again to blame for YM 1's criminal career, not him! He later claimed to a journalist that he was "...Australia's greatest cat burglar while...active"⁵³.

At one stage a film of YM 1's life called 'Hot Property' was being considered by a Melbourne based production company⁵⁴. I can safely bet that the incident in the hospital at St.Kilda in 1959 would not even rate a mention and he would no doubt join the Ned Kelly's in life and be portrayed as another victim of so called 'Police persecution'.

COURT APPEARANCES AND TRIAL

YM 1 was indicted, after his committal at Sutherland Local Court in late 1984, to the Liverpool District Court on the following charges: 61 charges of breaking, entering and stealing, 2 of larceny in a dwelling, 1 of being in a dwelling house at night with intent to steal, 7 of attempting to break and enter

with intent to steal, 9 charges of larceny of a motor vehicle, 1 charge of possessing housebreaking implements and 1 charge of assaulting a Police Officer. This last charge referred to the attempted punch that he threw at me while being escorted to the Detectives Office at Sutherland on the 30th June, 1984.

Included among these charges were the several original charges preferred against YM 1 by the Sutherland Detectives on the day of his arrest.

The trial commenced on the 17th April, 1985 before His Honour Judge Harvey Cooper and the jury retired to consider its verdict on the 12th June, 1985. After a 2 day deliberation, the jury returned a verdict of 'Guilty' in respect to all charges except for 3.

The trial was hard fought with numerous malicious allegations flying against us. The main allegation levelled was that YM 1 had been improperly maced by Detective Garvey in the interview room and that YM 1 had his fingerprints taken in the Detectives Office immediately afterwards by a Sutherland uniform Police officer. It was also alleged that Detective Davidson and I had fabricated the record of interview and that the finding of the balaclava at Kareela on that same day was another fabrication by us.

These allegations were raised at the trial on a voire dire and in later cross-examination by YM 1s defence counsel. Regardless of these allegations, the jury found YM 1 'guilty' of the majority of the offences for which he had been initially charged.

SENTENCING AND LATER THREATS BY YM 1

Upon his conviction for these offences, YM 1 was sentenced to 17 years penal servitude, with a non-parole period of 11 years.

YM 1 was not impressed with his conviction and sentence for these crimes. He expressed this no uncertain terms to a newspaper reporter after he was sentenced, saying "If I can't clear myself through the appeal courts I'll make Attila the Hun look like the tooth fairy-blood will flow. I'll use violence for the first time in my life to get square."⁵⁵

As it turned out YM 1 did not have to resort to violence to extract revenge. The Justice system later provided him with a perfect means to do so in the form of the future Royal Commission.

LIFE AFTER YM 1

After YM 1, life at the Regional Crime Squad continued as normal, as 'normal' any Crime Squad could considering the type of work we did.

From a personal point of view I was soon engaged in the investigation of other, serious crime such as the arrest and prosecution of members of the Comanchero and Bandido bikie gangs for their involvement in the Milperra Massacre and the issue of the Kareela Cat Burglar was soon relegated to the 'war story' area of my mind.

An Internal Affairs enquiry was launched in 1985 following a complaint by YM 1 that he had been illegally maced by us and that the record of interview that he had participated in had been fabricated, that is he had been verbaled.

This was fully investigated by Internal Affairs with almost all officers involved in the YM 1 investigation being interviewed and negating the allegations put forward by YM 1. The result of the investigation was forwarded to the State Ombudsman and nothing more was heard.

In 1988, the Court of Criminal Appeal reviewed YM 1s 1985 trial and the resultant conviction and the Court dismissed the appeal by YM 1.

Both John Davidson and I were honourably discharged from the Police Force in the early 1990's with the Detective Sergeant from Sutherland who had been in charge of the Police operation that resulted in YM 1s arrest being invalidated out of the Police with a stress complaint in 1988.

Other members of the Regional Crime Squad including Brian Harding, John Garvey, Steve Allen and Steve York continued in the Police Force with Harding and Garvey deservedly attaining senior Commissioned officer rank.

Sadly they lost this rank in 1996 after their own Royal Commission appearance, being dismissed as a result of the fabricated evidence put forward by the Wood Royal Commission over the investigation into the Kareela Cat Burglar incident, by the 'Loss of Commissioners Confidence' provisions which the Royal Commission considered essential for the Police Commissioner to have the power to dismiss an officer in whom confidence had been lost⁵⁶.

In the words of Justice Wood the loss of Commissioners Confidence "was intended (to) occur only after appropriate investigation in which an officer had a fair chance to be heard"⁵⁷.

Unfortunately when they were dismissed in 1996 they were not aware that the evidence that was dismissing them had been fabricated.

ROYAL COMMISSION INVESTIGATION INTO THE KAREELA CAT BURGLAR INCIDENT

For reasons that can easily be speculated when looking at some of the personalities involved, the Kareela Cat Burglar case became a matter of interest to the Wood Royal Commission and as a result summonses were issued in 1996 to various persons to attend the Commission hearing rooms at the St James Centre in Elizabeth Street, Sydney where allegations concerning corruption about the case were to be heard.

The old adage of 'never letting the facts get in the way of a good story' applies here in a big way.

During this week at the Royal Commission hearings we were forced to listen to the version of events put up by these witnesses but NOT permitted to cross-examine them on that evidence.

Strangely at the end of YM 1s evidence in chief he was deemed by Counsel assisting the Royal Commissioner to be in 'some personal inconvenience' and hence his evidence was not tested in any way by cross-examination by any counsel appearing for any of us. Although the nature of this 'personal inconvenience' was not given to the Commission, one can only assume certain things.

Anyway after a week of listening to this and realising that it really didn't matter what evidence was actually put up by us in reply, the Commissioner informed us that the papers would go to the D.P.P. That was it. Nothing more was indicated to us then and we left the Court to try to resume our lives.

SUMMONSES ISSUED-ENQUIRIES WITH NSW POLICE ASSOCIATION

After 3 years and hearing nothing about the matter we thought that our hearing in 1996 was all there was to it and had relegated it to one of life's 'character building' episodes . After all we had done nothing wrong and the matter was so old, some 12 years in fact by the time it had reached the Royal Commission in 1996 and here it was 1999 and the matter was now 15 years old.

This was all to change in early July 1999 when I received a phone call from Brian Harding informing me that we were being criminally charged over the cat burglar case. Brian told me that he, Garvey and York were charged on 3 counts comprising 1) Assault OABH 2) Common Assault and 3) Perverting the course of Justice, while John Davidson and I were to face 5 charges, the additional 2 other charges for us being 2 further counts of perverting the course of conduct over the record of interview that we had with YM 1 in 1984.

The resulting charges naturally created another round of unwanted media articles, in some cases by the same journalists who had covered the original Royal Commission some 3 years previously.

By way of interest to serving members of the New South Wales Police, all 5 of us were fully paid members of the Police Association up until the time we left to Force. This period of paid Association fees covered the time in 1984 when the incident with the Kareela Cat Burglar occurred.

Once we had been notified of the charges being levelled against us we naturally approached the Association for legal assistance but it was refused, despite the fact that we were fully paid up members at the time in 1984.

The reasons given by the Association was that we were not financial members of the Association when we were charged in 1999 and that the matter was not of general interest to the rank and file Police Officer.

The Associations lack of assistance is in itself another story.

AVAILABILITY OF SUPPORTIVE EVIDENCE THAT WAS IGNORED BY PROSECUTING AUTHORITIES

That the prosecuting authorities were hell bent on obtaining convictions against us (and would answer the question as to why they felt the need to fabricate evidence in the first place) became apparent when sworn evidence from many witnesses previously given in the 1985 District Court trial was examined.

This considerable amount of freely available and previously tested evidence, ignored by the latest prosecuting authorities in the Kareela Cat Burglar matter, was corroborative of the version of events that we had maintained since the incident had occurred in June 1984.

In addition to a quantity of jewellery being later located that was identified by owners as being stolen from various premises that YM 1 had broken into, as he had confessed to both Davidson and I at Sutherland Police Station, there were screwdrivers found in his possession at the time of his arrest that scientifically matched some other Kareela homes, again stemming from YM 1's confession to Davidson and myself.

The evidence of the various independent civilian witnesses who saw YM 1 pointing towards the bushland, indicating where he may have dropped his balaclava, witnesses who identified that particular balaclava as being the one found by Davidson and produced during the trial as well as Police witnesses who later spoke to YM 1 in the Police cells after he had been subjected to the macing by Garvey, were all ignored by the prosecuting authorities in their pursuit of a conviction.

Finally if there were any doubts that those pursuing the 5 of us were ignoring any evidence in our favour, these would be dispelled when it was learned that crucial evidence from a former Breaking Squad Detective, now a respected barrister in Sydney was totally disregarded.

This person accompanied Davidson to Sutherland Police Station in early July 1984 for a further interview of YM 1 some days after the initial confession had been recorded between Davidson, YM 1 and myself.

This interview concerned a quantity of jewellery that had been located and was recorded by this former Detective in his official notebook. In that interview particular references were made by both Davidson and YM 1 to the original confessional interview that had taken place some days earlier.

This later interview was NOT the subject of any charges whatsoever by the DPP yet this interview could not have occurred without the first confessional interview existing in the first place. The reader will recall that this earlier interview was the one that was the subject of charges against Davidson and myself for perverting the course of justice.

COMMITTAL PROCEEDINGS AND EMERGENCE OF EVIDENCE FABRICATION BY ROYAL COMMISSION

The committal into the charges laid against us was heard at the Downing Centre Local Court in 2000 and 2001 and lasted some 13 hearing days overall.

At the end of the committal hearing the Magistrate, Mr Ian Barnett made a comment on the discovery of the fabricated statements that formed the prosecution brief, saying "The defence have also raised related issues concerning...how the original statements of persons made to royal commission investigators were adapted into formal statements, again all these materials detract from the prosecution case."⁵⁸

During our committal we were able to show to the Court that the prosecution witnesses were lying on oath and were unreliable, as well as at least 70% of one of the four prosecution statements tendered in the prosecutions brief of evidence had been fabricated.

When the whole of the prosecutions case against us was examined it was found that there was such a volume of evidence showing witnesses lying on oath, lying in 1996 to the Royal Commission to obtain their indemnities, poor memories, major inconsistencies in their evidence etc in fact so much so that it would not be possible in this article to attempt to outline all aspects of the disgraceful prosecution brief that was brought against us.

To show how the Royal Commission fabricated the evidence against us I have simply chosen one part of the Royal Commission brief of evidence that best illustrates that fact.

In the beginning it did not occur to any of us that the Wood Royal Commission would fabricate evidence to ensure convictions against us. After all 'perverting the course of justice' was what we had been charged with.

However prior to the commencement of our committal hearing in June 2000 we had subpoenaed various documentary material from the archives of the NSW Government and the Wood Royal Commission.

Among the large amount of material we received were the original transcripts of prosecution witness interviews conducted by the Wood Royal Commission investigators in 1996.

These transcripts were drawn up, verbatim from tape-recorded interviews with those witnesses. The statements that were contained in the brief of evidence tendered to the Magistrate who eventually issued the summonses against us were typed up from these verbatim transcripts into a narrative form, with the necessary legal jurat at the beginning of the statement. Those statements (as opposed to the transcript) then formed part of the brief of evidence to the issuing Magistrate.

In the case of witness YM... he was interviewed on tape at his home on the 30th May 1996 by investigators Stevens and McGinlay of the Royal Commission.

When the original verbatim transcript of this interview was compared with the actual narrative statement from the Royal Commission brief of evidence it was found that about 70% of that statement had been fabricated and did not appear in the original interview transcript in any way or description.

The amount of extra material substituted into the prosecution statement made us wonder if another interview had in fact occurred with this witness at some later time that we weren't aware of.

This was clarified when the witness appeared at our committal in 2001 and stated, under cross examination that he had in fact only the one interview with the Royal Commission investigators in 1996.

The prosecution's own witness agreed under cross-examination that whoever prepared his statement put something in his statement that was wrong⁵⁹.

WITNESSES SIGNING INCORRECT STATEMENTS

An obvious question to ask by the dispassionate reader would be:-If the statements were so blatantly wrong, why would anyone sign them?

The answer to this can be found among the cross examination of the various witnesses who invariably stated that the statements were signed out of fear of being charged with an offence such as perverting the course of justice (there is a touch of irony in this when it is considered that the statements themselves were fabricated and therefore a perversion of the course of justice in their own right) or being told to sign it before he got into more trouble or being told by the investigators and, in some cases Royal Commission solicitors, that they would receive 14 years gaol and never see their children again!⁶⁰

To further induce them into signing their statements, the Royal Commission investigators told various witnesses blatant untruths that other officers, who were more actively involved in the incident at Sutherland Police Station than they were, had already 'co-operated'⁶¹ with the Royal Commission, when that was clearly not the case.

ISSUE OF INDEMNITIES TO PROSECUTION WITNESSES

Each of the four Royal Commission witnesses in the prosecution brief against us was issued with indemnities against being prosecuted themselves, subject to conditions.

During our committal in 2000 it was discovered that one of the roll over witnesses, in order to gain his indemnity, had actually told lies to the Royal Commission in his appearance in 1996.

When asked by the Royal Commission in 1996 whether the incident at Sutherland Police Station in 1984 involving the Kareela Cat Burglar was the ONLY corrupt act this person had been involved in in his 28 year Police career he agreed with Justice Wood that it was indeed the only incident he was

involved in⁶². Unfortunately Justice Wood did not realise at the time that he was being lied to by this individual.

As can be expected this evidence from a so-called 'decorated veteran police officer' made the papers the day after he gave this evidence, with the headlines screaming 'Veteran quits over one act of corruption'⁶³. His evidence at the Commission resulted in a later indemnity against prosecution by the NSW Attorney General on the 10th March 1997 in order for him to give evidence against us.

However his lies to the Royal Commission became exposed when he was later cross-examined about this at our committal. He admitted that he had not been truthful to the Royal Commission in 1996 and in his career had deliberately falsified evidence in about 10 Local Court cases prior to the incident at Sutherland Police Station in 1984. He agreed that as a result of his own fabrications, people had been convicted.

DETAILS OF ROYAL COMMISSION INVESTIGATORS WHO CONDUCTED INVESTIGATION INTO KAREELA CAT BURGLAR INCIDENT

As stated earlier, investigators for the Wood Royal Commission were drawn from interstate Police Forces. The main investigators tasked with investigating the Kareela Cat Burglar macing incident were Detectives Phillip Stevens (from Queensland) and David McGinlay (from South Australia). Detective Stevens was the investigator who signed as a witness to the fabricated statement previously mentioned in this story. These individuals have been mentioned publicly before so I have no hesitation in doing so for this article⁶⁴.

During his time as a Royal Commission investigator Detective McGinlay was also involved in the matter of Kim Hollingsworth, the former stripper and prostitute who joined the NSW Police and later provided information to the Royal Commission regarding allegations of corruption.

It was reported⁶⁵ that when disclosing her information to the Royal Commission (and after being told that she would be protected) she was put onto a plane to Adelaide, having been told it was too dangerous to stay in Sydney. When she asked how she was to support herself in Adelaide she stated that Detective McGinlay told her to: "Go and work for a lady called Stormy, Stormy Summers-you will find her name in the phone book. She has a brothel and she looks after her girls, don't work for John Novak because he bashes the girls."

Later when she was considering working for an escort agency she telephoned Detective McGinlay who rang her back to say "Yeah I checked it out, that's fine".

It has been noted that the Royal Commissions investigators, on Hollingsworth's account, seemed themselves to have behaved 'very oddly'⁶⁶. As far as I am aware the offence of 'Procuring Prostitution' is still on the South Australian Statute books.

McGinlay was also himself adversely mentioned in the media in early 2003 concerning allegations of corruption, where evidence heard before the Bishop enquiry about some of his activities while at the Royal Commission⁶⁷.

Evidence was publicly given that McGinlay had been suspended from duty in the South Australian Police Force and was awaiting disciplinary charges involving separate allegations of sexual misconduct. It was also stated that McGinlay, while working with the Wood Royal Commission had tried to intimidate a police officer into changing his evidence to the Royal Commission⁶⁸.

In this instance McGinlay contacted the officer at his home late at night and stated he was acting on behalf of Mr James Black, counsel assisting Justice Wood. McGinlay indicated to him they wanted him to change his evidence to something 'more suitable'⁶⁹.

In looking at the Queensland Police antecedents of Detective Stevens one wonders how he managed to obtain a position with the Wood Royal Commission in the first place. It also poses questions as to the recruitment and selection procedures and integrity checking by the Commission of suitable officers.

Stephens was a junior member of the Licensing Branch of QPOL in 1987. At the time of the Fitzgerald Enquiry it was disclosed that he had consumed free drinks and food at a premises known as Fantasy Photographs in Brisbane. A complaint of this incident was made and Stevens was officially reprimanded by the Assistant Commissioner (Task Force).

Although seemingly minor, the incident should have sent some alarm bells ringing with those tasked with recruiting investigators for the much-vaunted NSW Police Royal Commission.

Finally on the subject of Royal Commission investigators Justice Wood himself makes reference to the fact that the investigators were drawn from law enforcement agencies other than New South Wales because they '...lacked all connection to hostile and corrupt elements within that Service....'⁷⁰

If that is indeed the case where did these Royal Commission investigators obtain the idea in the first place of using fabricated statements to prosecute individuals, thereby acting corruptly themselves? Surely they would not have acted corruptly if they felt comfortable to do so in their own work environment.

PROCESS CORRUPTION-RELEVANCE TO ACTIONS OF ROYAL COMMISSION

In the aftermath of the Wood Royal Commission, Justice Wood described the practice of planting evidence, perjury, falsification of documents, forced confessions etc as 'Process Corruption'⁷¹ aimed at securing unjustified convictions. He stated that 'over the years 'process corruption' had been developed into an art form by some sections of the Service, notwithstanding strenuous attempts by the criminal bar to challenge police verbals, the planting of evidence and induced confessions'⁷².

He went further and stated that 'often the truly corrupt rely upon the more altruistic reasons for its adoptions, as an excuse or mask for their venality.'⁷³

In saying this Justice Wood could not have been aware of the actions of his very own 'hand picked' investigators indulging in 'Process Corruption' of their own in order to achieve their own ends.

In looking at the actions of the Royal Commission investigators whereby evidence was fabricated in the Kareela Cat Burglar matter, Justice Wood also stated in his address that:

"Once an officer has become involved in any form of process corruption, and has been forced to prepare false documentation, or to give false evidence, he or she is potentially compromised for all time. Not only is that officer vulnerable to pressure from other police to remain silent for the immediate matter and other matters, but he or she has begun to learn the practice of lying and covering up and to see the ease with which it can be practised."⁷⁴

He also stated in another address:

"Very often it was found that a willingness to participate in this form of conduct (i.e. process corruption) was regarded as a rite of passage and as the means by which ambitious young officers could attach their stars to those within the powerful cliques which had formed within the Service (Read Royal Commission) and who were able to influence their career paths and promotional opportunities"⁷⁵.

No doubt Justice Wood was again referring only to NSW police officers when he made that statement, but in light of the fabrication of evidence by his own investigators, Stevens and McGinlay, it must apply equally to them and possibly to others.

THE END OF THE WOOD ROYAL COMMISSION

As is known when the Royal Commission had completed its work the final report was handed to the Government in mid 1997. Peter Ryan became the new Commissioner of Police and life went on.

One would be forgiven for asking, in today's climate, what did the \$64 million⁷⁶ Royal Commission actually achieve?

People died, the lives of witnesses, families and friends affected forever. One should also ask: "Is New South Wales a better place than before the Royal Commission?" Each person reading this will have their own answer based on their own life experiences.

But in summary it was reported in 2001 that '(N)early 85% of police officers charged with offences arising out of the Wood Royal Commission have walked free, with prosecutors blaming legal bungles and tainted witnesses⁷⁷.'

The dismal 'score card' of the Royal Commission was that, up until 2001 only 12 officers had been dealt with in the Courts for matters arising from the Commission-3 being found guilty at trial and 9 pleading guilty to corruption charges. Seven have received gaol terms⁷⁸.

Further, more than 90 officers were named adversely during Justice Wood's enquiry with 46 briefs of evidence being sent to the DPP involving 93 suspects, with 73 of them police officers. Fourteen officers accused of corruption had the charges thrown out of court because search warrants obtained by the Royal Commission were found to be illegal⁷⁹.

In addition the notorious 'Loss of Commissioners confidence' provisions, Sections 181 B & D, have suffered ignominious blows with Industrial Relations Commission Judges later overturning several decisions to sack officers amid criticism of processes used by Commission Ryan and Internal Affairs⁸⁰.

As for the Kareela Cat Burglar case, the end of the Wood Royal Commission only meant unfinished business to a few persons as far as bringing the unaccountable actions of its investigators and their corrupt practices to public awareness.

As was put in one of the many news articles about our case *"The issue here is whether or not the investigators took it upon themselves to behave in precisely the same fashion as they were tasked to investigate or was their behaviour part and parcel of commission policy. If it was then it can only be viewed as breathtaking hypocrisy⁸¹"*

An editorial in 2001 put it succinctly:-*"The Wood Royal Commission did shed valuable light on the culture of corruption in the NSW Police Service. It is deeply disturbing to hear credible claims that the commission itself was less than scrupulous in its methods. The commission was supposed to*

*restore integrity to the Police Service and its vital organs, such as Internal Affairs, not compromise it further*⁸²."

As will be seen below, the Royal Commission was a causal factor in the deaths of nearly the same number of people as it was successful in prosecuting.

PERSONS CONNECTED TO THE ROYAL COMMISSION COMMITTING SUICIDE-WERE THEY ALSO VICTIMS OF FABRICATED EVIDENCE?

The following is a list of persons derived from contemporary newspaper articles who, in various ways, have committed suicide in connection with the Wood Royal Commission. The list is probably not complete, but is as complete as research will allow⁸³:

1. 15 June 1995 Unnamed 32 year old Detective from Annandale Police Station who jumped to his death from a 7th floor building.
2. 12 April, 1997 Policeman Clinton Moller found hanged at Parklea Gaol-was serving a sentence for contempt-was told he was being transferred to Berrima Gaol but, according to his lawyer Ken Madden, the decision to overrule his transfer to Berrima was designed to place pressure on Moller.
3. 10 July, 1995 Businessman Ray Jenkins gassed himself in his car
4. 23 September 1996 Detective Wayne Johnson shot himself and his wife-Johnson was earlier named at the Royal Commission
5. 4 December 1996 Mr Danny Caines found gassed in his car at Forster
6. 17 October 1997 John Ross, shot himself at the Sebel Townhouse-named in Royal Commission as having made corrupt payments to Police
7. 4 November 1996 Justice David Yeldham gasses himself in his car
8. 29 March 1996 Acting Patrol Commander Bob Tait, Narrabri-shot himself after being accused by the Royal Commission
9. 18 April, 1996 Brian Tobin, gassed himself in his car hours after being interviewed by Royal Commission investigators.
10. 8 May 1996 Peter Foretic gasses himself in his car the day before giving evidence at the Royal Commission
11. 17 September 2002 -Mr 'R', plunged a knife into his heart surrounded by newspaper clippings in 1996 of his appearance at the Wood Royal Commission

In looking at this list can the reader appreciate if there was a mine disaster, plane or train crash where this number of people were killed the full resources of a Government would be brought into being and an immediate Royal Commission before a Judge would be set up⁸⁴.....but not in this case.

People might say does anyone in the Government know about these deaths? The simple answer is that the Government does know about this issue but refuses to acknowledge that there were any problems with the Royal Commission, let alone that suicides have and continue to occur

This ignorance by the Government can be best illustrated by reading the NSW Legislative Council Questions and Answers in September 2001 when The Hon. Peter James Breen, MLC posed a question to the Minister representing the Minister for Police, asking the Minister how many people had committed suicide as a result of the activities of the Wood Royal Commission⁸⁵.

The Ministers answer, comprising only one sentence, was that the question was not possible to answer as it is not recorded as a cause of death⁸⁶! A simple check of freely and publicly available information would have provided a totally different answer to the Minister should he have taken the time to look.

Justice Wood obviously recognised the risk of suicide when he stated after the Royal Commission⁸⁷ that "(B)ecause of the risk of suicide of officers caught out in this kind of enquiry and because of the need for considerable personal support of those working in stressful and dangerous undercover activities a Commission will be well advised to have one staff a psychologist with particular experience in dealing with Police as well as crisis links to a group of psychiatrists. The need, Justice Wood stated for such a resource should not be overlooked nor should the stresses involved be underestimated"⁸⁸.

In light of the fact that there were double digit suicides during and continuing well after the Royal Commission, this naïve, but well meaning discourse about the need to address the risk of Police suicide would not have applied to his own Royal Commission. Indeed suicides happened and continue to happen, so therefore one could ask where is the support that Justice Wood is referring to.

As bad as it is having this number of people commit suicide over such a thing as the Wood Royal Commission, the greater tragedy is that it still happens to this day to Police and others traumatised by such recent enquiries as the Police Integrity Commission's recent 'Operation Florida'.

It seems that nothing was learned by the deaths that occurred during and after the Wood Royal Commission and it makes a mockery of Justice Woods's public statements.

CONNECTION BETWEEN FABRICATED EVIDENCE AND ROYAL COMMISSION SUICIDES

I have often wondered, in light of our experience with the Royal Commission fabricating evidence whether or not they have fabricated evidence against other people. After all, why single out the 5 of us for special attention?

The answer to that question is obviously that if they illegally fabricated evidence once, they did it on other occasions that has not yet surfaced or not been made as public as the Kareela Cat Burglar case. If that is the case, is it not possible that some of the persons who paid the ultimate price and lost their lives in this episode were also the victims of possibly fabricated Royal Commission evidence?

The illegal fabrication of evidence by some of the Wood Royal Commission investigators is no consolation for the relatives and friends left behind and goes a long way to explaining why the Government and others are assiduously avoiding this issue, hoping it will go away. They have yet to realise that it will not go away.

DUTY OF CARE RESPONSIBILITIES BY THE WOOD ROYAL COMMISSION TO THESE SUICIDES

We hear a lot of talk today about "Duty of Care" and in light of the suicides that occurred during and after the Wood Royal Commission, coupled with the prior knowledge that there was a real potential for persons appearing before the Royal Commission to in fact commit suicide, it should be looked at.

To explore this further one needs to firstly look at what comprises "Duty of Care". As I understand it the standard judgement for Duty of Care comes from *Donoghue v Stevenson*⁸⁹ where the concept is explained:

"The rule that you are to love your neighbour becomes in law, you must not injure your neighbour; and the lawyer's question, "Who is my neighbour" receives a restricted reply. You must take reasonable care to avoid acts or omissions, which you can reasonably foresee, would be likely to injure your neighbour. Who, then, in

law is my neighbour? The answer seems to be persons who are so closely and directly affected by my act that I ought reasonably to have them in contemplation as being so affected when I am directing my mind to the acts or omissions which are called in question."

There are 4 simple considerations for Duty of Care at Common Law, namely:

- **FORESEEABILITY** (Could the incident have been one which the employer should have foreseen?)
- **PROBABILITY** (Was the incident one which could reasonably be expected to occur?)
- **PREVENTABILITY** (Could the incident have been prevented through training awareness or its effects minimised?)
- **CONSEQUENCES** (Were sufficient procedures in place to adequately address all consequences such as post trauma counselling etc?)

In looking at this subject one may ask how could the Wood Royal Commission have known that suicides of people appearing before the Commission could have occurred?

Similar overseas corruption commissions, such as the Knapp and Mollen Commission in America were rife with police suicides and it is common knowledge that members of the Wood Royal Commission prior to it being established studied such overseas commissions. In fact references to both of these commissions of enquiry can be found in the Volume 1 of the Final Report of the Wood Royal Commission (Chapter 2)

When setting up the Wood Royal Commission it would have also been well aware of the 1974 investigation into the NYPD's once elite Special Investigation Unit which came fresh on the heels of the Knapp Commission's investigation.

The SIU investigations main 'rollover' witness, Robert Leuci supplied information that led to investigations of SIU Detectives Dave Cody and Joe Nunziata, both of whom chose to commit suicide rather than face prosecution⁹⁰.

DEATH OF DETECTIVE RAY McDOUGALL, MAJOR CRIME SQUAD SOUTH

Not all deaths attributable to the Royal Commission were caused by suicide.

The case of Detective Ray McDougall of the Major Crime Squad South is classic case. In this matter allegations of corruption were levelled at this officer and as a result his telephone was tapped by the Royal Commission.

During these phone calls the Royal Commission ascertained that, although married was having an affair with another woman. McDougall was threatened about this by the Royal Commission and even his wife was brought to the hearing rooms in an attempt to further intimidate him and use the affair he was having as leverage.

McDougall was fit and healthy but his health declined after this incident and he ended passing away a short later, as a result of motor neurone disease. The criminal who made the original allegations later recanted and said they were not true.

Interestingly enough the informant in this matter later stated "The Royal Commission deceived many people...and they did it in a way which I believe was illegal, which ruined many lives and jobs for nothing."⁹¹

SUPPLY OF HEROIN BY WOOD ROYAL COMMISSION TO DRUG DEALERS AT KINGS CROSS

The last matter that I wish to deal with is something that I was not directly involved in however I know all the officers concerned, having worked with each of them in Crime Squads or other enquiries.

It flows on from the fabricated evidence used produced by the Wood Royal Commission in our prosecution and is another example of illegal activities by the Wood Royal Commission and supports the notion of the total lack of accountability of the investigators working with the Wood Royal Commission.

This incident also featured in an episode of 60 Minutes on the 30th March 2003 and has also referred to in subsequent NSW District Court cases⁹². It also figures in evidence given before the 2003 Bishop enquiry⁹³.

In June 1996 investigators from the Wood Royal Commission commenced 'Operation Caesar' which concentrated on drug dealing at the Cosmo Café in Kings Cross and lasted about 4 weeks. In order to trap allegedly corrupt Police officers the Royal Commission "aided and abetted the supply of heroin and cocaine to these dealers, effectively 'green lighting'⁹⁴ these drugs to be sold on the streets of Sydney"⁹⁵.

The only problem was, however that the heroin the Royal Commission were giving to the drug dealers in this operation was of a higher purity than the average street junkie was used to.

The Royal Commission used, as their informant in this incident, the main dealer and distributor of both heroin and cocaine in Kings Cross at the time. A NSW Police Task Force named BAX was also independently conducting its own surveillance of this same offender in an effort to arrest and charge him with drug related matters.

During their surveillance, one officer from Task Force BAX heard a listening device recording whereby someone raved in to where the informant was, saying "Its too strong, we have to cut it down, they're dropping in the streets."

The fact that drug users were indeed 'dropping in the streets' is illustrated in the March 2003 60 Minutes story of this incident where it was claimed that '13 people died from overdoses in just 3 weeks'⁹⁶ as a result of this 'hot heroin' incident.

When this all blew up, the Royal Commission went into damage control. The Royal Commissioner himself, Justice James Wood, issued a dramatic threat saying *"It's time that those who do supply it realise that they are facing a potential charge of murder or manslaughter if someone dies as a result of it and the heroin can be traced back to them."*⁹⁷

I doubt when he said this he realised that he was actually referring to his own Royal Commission staff, including one of the Royal Commissions own senior Prosecutors, John Agius who was instrumental in recruiting the main informant for this operation⁹⁸.

Indeed at the height of this drama one of the Royal Commission investigators, Keiran Miller told the drug dealers to cut the heroin down to 3:1 ratio, not the current 1:1, however no attempt was made to stop the flow of heroin. Miller was also heard on a listening device tape to say that we (i.e. the Royal Commission) does not have the authority to sell drugs where people are 'o'deeing'.

In listening to these conversations the informant appears worried and was told by Miller at one stage that for people to die in this fashion (that is overdosing on heroin) is manslaughter, echoing the sentiments expressed by Justice Wood himself.

In subsequent District Court trials reference is made to this incident by one of the Judges as 'hot heroin' but noted that the Royal Commission acted quickly when it was suggested that there was a danger with it. Not quickly enough for some drug addicts, I would suspect.

In another District Court trial his honour makes the point about this incident at the Cosmo Café that *"...it would be at least improper for people in the position of the Royal Commission investigators and their advisers to permit and encourage that man to continue with his drug dealing. That is what they did."*⁹⁹

The Court cases where references to the 'Hot Heroin' was made can easily be found. The first trial was before Judge Gibson and is dated the 17th August 1998 in the matter of Regina -v- Peter Kay and Bill Bayeh, while the second one is dated the 9th December 1999 before Judge Viney and is in the matter of Regina -v- Peter and Roula Kay¹⁰⁰.

Geoff Wegg, one of the senior Task Force Bax officers summed up the main issues as he saw them surrounding this 'hot heroin' incident: *"What did shock me was the fact that he (the informant employed by the Royal Commission) was still allowed to sell drugs without supervision, without any accountability, without any accountability for the drugs, the quantity of the drugs, the strength of the drugs, the money that was involved, the profits that he was making for it from those particular sales. There was no accountability on their behalf.....it just went against standard procedures. It was not the right way to do it. It was an illegal act"*¹⁰¹.

But again there is still no accountability for the Royal Commissions illegal actions.

DUTY OF CARE RELATING TO HEROIN OVERDOSES

In returning to the main theme of this article, the lack of accountability of the Royal Commission investigators, I now turn to a research paper put out by the Australian Institute of Criminology where the subject of Duty of Care in relation to heroin overdoses is discussed¹⁰².

Although the paper predominantly deals with the issue of those persons unfortunate enough to be present when a heroin overdose occurs and the user dies, one part of the paper deals with the type of situation that the Royal Commission constructed in 1996 at Kings Cross during Operation Caesar.

Under the heading 'Criminal liability for Heroin Overdose' the authors mention the following: *"Courts have on numerous occasions held that manslaughter can be committed through the administration of drugs....However where one person merely supplies drugs which are subsequently injected with fatal results the voluntary act of self administration is usually regarded as an intervening event which breaks down the causal chain leading from the supply to the death (Dalby (1982) 1 All ER 916) It is only where there is some further act of involvement or encouragement in the lethal overdose, such as preparing the mixture and handing it to the injecting user, that a manslaughter conviction is likely to be upheld (Kennedy (1998) EWCA 3411)"*

Simply put, although the Royal Commission did not physically hand the heroin to the users, if the Royal Commission had not provided the higher grade heroin in the first place, overdoses would not have occurred.

GOVERNMENT RESPONSE TO HEROIN OVERDOSE ALLEGATIONS

As would be expected in the leadup to the NSW State Elections in March 2003, when these allegations were being publicly raised, the silence was deafening. The only public response forthcoming was from the then Minister of Police Michael Costa that the ICAC should investigate the allegations¹⁰³. As can be seen below ICAC did not want to know about it and threw it back to the Government to investigate

GO AWAY-NO ONE WANTS TO KNOW!!!

The guns of the Wood Royal Commission fell silent some 7 years ago and it has now been virtually relegated to the legal history books. Life as they say now has 'moved forward' and those affected by this episode are left to pick up the pieces of their life and go on as if nothing has happened.

However the hypocrisy of having the Wood Royal Commission fabricate evidence against Police that were themselves accused of fabricating evidence means that it cannot 'move forward' until there is some resolution.

In addition to the double digit suicides, the fatal drug dealing at Kings Cross and the total lack of accountability makes any outcome politically difficult and way too hard, considering how the Royal Commission came into being and the many political, legal, Police and media reputations that rode on its back.

Indeed there are quite a few well known media personalities who have met with us over the years and discussed the actions of the Wood Royal Commission but again nothing has happened.

After our committal in 2001 had exposed the corrupt activities of some of the investigators with the Wood Royal Commission, we made a number of written complaints. The problem we encountered was that most Government Departments were in the beginnings of 'election mode' for the March 2003 NSW State Election and did their best to avoid dealing with the subject. The flick passing of this whole episode by various authorities would have made Wally Lewis look like an amateur!

To give an example of the merry-go-round that we have encountered here are some of the areas that were looked at by us to raise awareness:

1.	S.A. Police Complaints Authority 2001	Declined-McGinlay not member of SAPOL at time	
2.	Anti Corruption Unit, SAPOL 2001	Declined-appropriate forum for complaint is NSW Ombudsman	Ombudsman declines (See No. 6)
3.	Reported crime to NSW Police 2001	Declined action under Part 8A of the Police Service Act ALSO-letter from Michael Holmes (Legal)-not proper for NSWPOL to investigate allegations-Complaint referred to ICAC-criminal actions only referred to as 'misconduct' by Holmes.	ICAC later declines
4.	QLD Criminal Justice Commission 2001	Declined-NSW authorities are 'considering issues'	
5.	NSW Minister for Police (Whelan) 2001	Complaint referred to ICAC	See letter from Holmes referring to ICAC (No. 3) Also ICAC decline (See No.8)
6.	NSW Ombudsman's office 2001	Declined-NSW Police Service should investigate	Already declined by NSWPOL (See No.3)
7.	NSW Minister for Police (Costa) 2002	Letter states complaint re Royal Commission should be lodged with PIC or ICAC	ICAC declined (See No.8)
8.	ICAC	Declined-"Not appropriate for ICAC to investigate matters". Further information was the ICAC deem that the matter was for the Government to investigate as they set up the	

		Royal Commission-other discussions were that as the Government had recruited these investigators it was their fault that no accountability mechanisms were put into place.	
9.	C'wealth Ombudsman re actions of AFP Senior Investigators & Director of Operations Directorate, Royal Commission (x 2 separate letters of complaint)	Declines to investigate	
10.	Consultative meeting at Police HQ with Legal NSWPOL and Director General Police Ministry 2002	Information was that there 'were reasonable prospects for optimism'; <u>advised that legal proceedings (by Harding, Garvey etc) NOT be commenced at this stage</u> ; matters to be forwarded to ICAC for review as 'most appropriate body to investigate'.	Nothing further; ICAC declines to investigate
11.	NSWPOL Task Force 'Peachface' established to investigate allegations		Faded away after election in March 2003-initially told that Task Force was 'on hold' until advised by ICAC
12.	Bishop Enquiry	Evidence re fabrication of evidence, suicides, heroin overdoses etc	No comments by anyone in NSW Government in leadup to March 2003 election re allegations
13.	60 Minutes program 2003	Heroin overdose deaths at Kings Cross	Comments in newspapers by Minister that ICAC had jurisdiction to investigate-NO investigation forthcoming

And on it goes.....!

FINAL WORD

The morale of the New South Wales Police Force as a whole took a real hammering during the Wood Royal Commission and I seriously think it still has not recovered.

The well orchestrated and one sided media campaign made it extremely difficult for the ordinary rank and file Police officer to do their jobs with any enthusiasm by portraying corruption in the Police Force as being out of control thereby implicating, in the mind of the public, every serving member who put on a suit of blue.

However in trying to balance things out and put things into perspective I can think of no better way of expressing it than by a comment in the American Law Enforcement News in 1999 where it states:

Police officers do not take a special pledge to cover misdeeds, nor will they routinely commit perjury to protect outrageous police behaviours. Both the Mollen and Knapp commissions demonstrated that police officers would cooperate with any investigation legally conducted under the rule of law.

When there is evidence of police misconduct, the elected and appointed officials who are responsible for the direction and regulation of the police force should not expect the accused officers to investigate themselves.

Activists need the existence of a "blue wall of silence" as a convenient construct to conjure up the illusion that the police are out of control. This short phrase reaches into the emotions of the public to extract the entire negative

perceptions and stereotypes of the police. This catchy sound bite gives opportunists a chance to advance a personal agenda.

The opinion tendered by former Commissioner Bratton was peppered with pejorative: "brutal assault"; "outside the norm"; "widespread corruption"; "pathological police criminals"; "utter disgrace to the police uniform." The term "blue wall" implies that police officers condone despicable conduct.

Bratton offers this prediction: The wall is cracking, weakening, and will fall...¹⁰⁴

CONCLUSION

This is probably the easiest part of this article to write simply because there is no conclusion, no finality and no end, at this stage, to this saga.

While the Government deals with this by obfuscation, hoping it will go away there is a quiet but growing groundswell of indignation that refuses to allow that to happen.

I hope that, in reading this article, the reader, in marvelling at the blatant hypocrisy of this fiasco, can gain some understanding of those individuals whose lives have been changed, not always for the better, by persons who have absolutely no accountability for their actions and who are determined not to let the matter rest.

¹ The Inquisition by Michael Baigent and Richard Leigh, Penguin Books 1999. Pgs 30-33

² Ibid pg 30.

³ The General Manager Court and Legal Services, Mr Michael North Holmes has informed the Minister for Police that all aspects of this United Nations Code of Conduct has been embodied into current NSW Police Codes of Practice.

⁴ See http://www.unhchr.ch/html/menu3/b/h_comp42.htm for details of the Code of Conduct resolution for Law Enforcement officials

⁵ Taken from Chapter 2, Final Report Police Royal Commission (1997)

⁶ See Cokie and Robinson (1937) as quoted in 'Committees And Commissions Of Inquiry Into Criminal Justice Agencies: A History Repeating Itself' by Desmond McDonnell Australian Graduate School of Police Management, NSW Paper presented at the History of Crime, Policing and Punishment Conference convened by the Australian Institute of Criminology in conjunction with Charles Sturt University and held in Canberra, 9-10 December 1999

⁷ Tribunals of Inquiry and Royal Commissions, Centre for International and Public Law, Law and Policy Paper 22, pg 1.

⁸ Tribunals of Inquiry and Royal Commissions, Centre for International and Public Law, Law and Policy Paper 22, pg 1.

⁹ See http://www.lawlink.nsw.gov.au/sc%5Csc.nsf/pages/sp_60999- Royal Commissions: A Prelude to the Reform Process Address by the Hon. James Wood Chief Judge at Common Law of the Supreme Court of NSW to the IACOLE conference in Sydney 6 September 1999

¹⁰ Tribunals of Inquiry and Royal Commissions, Centre for International and Public Law, Law and Policy Paper 22.

¹¹ See ABC PM story 'Doubts surround HHH Royal Commission' Tuesday, 22 May, 2001

¹² See www.austlii.edu.au/cgi-bin/disp.pl/au/journals/UNSWLJ/2001/45.html?query=%7e

¹³ Sydney Morning Herald May 13th 1994

¹⁴ See 'The Whistleblowers' The Daily Telegraph 24/5/1997-Pg 34

¹⁵ Sydney Morning Herald May 13th 1994 / See also House papers -Legislative Assembly 11 May 1994 -Votes and Proceedings for original Hatton motion.

¹⁶ See http://www.lawlink.nsw.gov.au/sc%5Csc.nsf/pages/sp_60999- Royal Commissions: A Prelude to the Reform Process Address by the Hon. James Wood Chief Judge at Common Law of the Supreme Court of NSW to the IACOLE conference in Sydney 6 September 1999

¹⁷ Sydney Morning Herald 29/6/1995 Weeding out corruption' by Arthur King, Researcher to John Hatton.

¹⁸ Sydney Morning Herald 29/6/1995 Weeding out corruption' by Arthur King, Researcher to John Hatton.

¹⁹ See NSW Hansard articles: LA 113/05/1994 #10 / Also see SMH editorial May 13th 1994

- ²⁰ See Chapter 1 of Final Report Royal Commission-A 'The Scope of the Inquiry'.
- ²¹ NSW Hansard articles: LA 113/05/1994 #10
- ²² COMMITTEES AND COMMISSIONS OF INQUIRY INTO CRIMINAL JUSTICE AGENCIES: A HISTORY REPEATING ITSELF by Desmond McDonnell Australian Graduate School of Police Management, NSW. Paper presented at the History of Crime, Policing and Punishment Conference convened by the Australian Institute of Criminology in conjunction with Charles Sturt University and held in Canberra, 9-10 December 1999
- ²³ All referenced to McDonnell:- 'COMMITTEES AND COMMISSIONS OF INQUIRY INTO CRIMINAL JUSTICE AGENCIES: A HISTORY REPEATING ITSELF' by Desmond McDonnell Australian Graduate School of Police Management, NSW.
- ²⁴ House Papers Legislative Assembly-15 November 1994-Votes and Proceedings
- ²⁵ See Chapter 1 of Final Report Royal Commission-A 'The Scope of the Inquiry'.
- ²⁶ Sydney Morning Herald 29/6/1995 'Weeding out corruption' by Arthur King, Researcher to John Hatton / See also 'A Figment of the political imagination' ABC National 24/3/1996.
- ²⁷ Corrected copy of NSW Legislative Assembly Hansard Article No. 17 11/5/1994
- ²⁸ Section 101B of the Independent Commission Against Corruption Act has almost identical wording to Section 37K including that no complaint can be made under Part 8a of the Police Act
- ²⁹ Letter from Wainwright to McGann dated 30 April 2001.
- ³⁰ Letter from Riordan to Harding dated 2 November 2001
- ³¹ Letter from Sergeant K.Gentle Special Crime and Internal Affairs to Harding, 11/10/2001
- ³² See interview on Sunday program 21/7/2002
- ³³ See transcript of INSIGHT program, SBS on 12/6/2003
- ³⁴ See Court transcripts-also see The Australian 6-7/9/2003 'The Shame Game' by Steve Barratt.
- ³⁵ Letter by Crooke to Queensland Commissioner of Police J.P.O'Sullivan dated 25/3/1997-Crooke was previously a counsel with the Fitzgerald Commission in Queensland.
- ³⁶ See [http://www.lawlink.nsw.gov.au/sc%5Csc.nsf/pages/sp 60999-Royal Commissions: A Prelude to the Reform Process Address by the Hon. James Wood Chief Judge at Common Law of the Supreme Court of NSW to the IACOLE conference in Sydney 6 September 1999](http://www.lawlink.nsw.gov.au/sc%5Csc.nsf/pages/sp%2060999-Royal%20Commissions%20A%20Prelude%20to%20the%20Reform%20Process%20Address%20by%20the%20Hon.%20James%20Wood%20Chief%20Judge%20at%20Common%20Law%20of%20the%20Supreme%20Court%20of%20NSW%20to%20the%20IACOLE%20conference%20in%20Sydney%206%20September%201999)
- ³⁷ See Royal Commission Report Volume 3 for listed names and positions
- ³⁸ See [http://www.lawlink.nsw.gov.au/sc%5Csc.nsf/pages/sp 60999-Royal Commissions: A Prelude to the Reform Process Address by the Hon. James Wood Chief Judge at Common Law of the Supreme Court of NSW to the IACOLE conference in Sydney 6 September 1999](http://www.lawlink.nsw.gov.au/sc%5Csc.nsf/pages/sp%2060999-Royal%20Commissions%20A%20Prelude%20to%20the%20Reform%20Process%20Address%20by%20the%20Hon.%20James%20Wood%20Chief%20Judge%20at%20Common%20Law%20of%20the%20Supreme%20Court%20of%20NSW%20to%20the%20IACOLE%20conference%20in%20Sydney%206%20September%201999)
- ³⁹ See [http://www.lawlink.nsw.gov.au/sc%5Csc.nsf/pages/sp 60999-Royal Commissions: A Prelude to the Reform Process Address by the Hon. James Wood Chief Judge at Common Law of the Supreme Court of NSW to the IACOLE conference in Sydney 6 September 1999](http://www.lawlink.nsw.gov.au/sc%5Csc.nsf/pages/sp%2060999-Royal%20Commissions%20A%20Prelude%20to%20the%20Reform%20Process%20Address%20by%20the%20Hon.%20James%20Wood%20Chief%20Judge%20at%20Common%20Law%20of%20the%20Supreme%20Court%20of%20NSW%20to%20the%20IACOLE%20conference%20in%20Sydney%206%20September%201999)
- ⁴⁰ See [http://www.lawlink.nsw.gov.au/sc%5Csc.nsf/pages/sp 60999-Royal Commissions: A Prelude to the Reform Process Address by the Hon. James Wood Chief Judge at Common Law of the Supreme Court of NSW to the IACOLE conference in Sydney 6 September 1999](http://www.lawlink.nsw.gov.au/sc%5Csc.nsf/pages/sp%2060999-Royal%20Commissions%20A%20Prelude%20to%20the%20Reform%20Process%20Address%20by%20the%20Hon.%20James%20Wood%20Chief%20Judge%20at%20Common%20Law%20of%20the%20Supreme%20Court%20of%20NSW%20to%20the%20IACOLE%20conference%20in%20Sydney%206%20September%201999)
- ⁴¹ See [http://www.lawlink.nsw.gov.au/sc%5Csc.nsf/pages/sp 60999-Royal Commissions: A Prelude to the Reform Process Address by the Hon. James Wood Chief Judge at Common Law of the Supreme Court of NSW to the IACOLE conference in Sydney 6 September 1999](http://www.lawlink.nsw.gov.au/sc%5Csc.nsf/pages/sp%2060999-Royal%20Commissions%20A%20Prelude%20to%20the%20Reform%20Process%20Address%20by%20the%20Hon.%20James%20Wood%20Chief%20Judge%20at%20Common%20Law%20of%20the%20Supreme%20Court%20of%20NSW%20to%20the%20IACOLE%20conference%20in%20Sydney%206%20September%201999)
- ⁴² See [http://www.lawlink.nsw.gov.au/sc%5Csc.nsf/pages/sp 60999-Royal Commissions: A Prelude to the Reform Process Address by the Hon. James Wood Chief Judge at Common Law of the Supreme Court of NSW to the IACOLE conference in Sydney 6 September 1999](http://www.lawlink.nsw.gov.au/sc%5Csc.nsf/pages/sp%2060999-Royal%20Commissions%20A%20Prelude%20to%20the%20Reform%20Process%20Address%20by%20the%20Hon.%20James%20Wood%20Chief%20Judge%20at%20Common%20Law%20of%20the%20Supreme%20Court%20of%20NSW%20to%20the%20IACOLE%20conference%20in%20Sydney%206%20September%201999)
- ⁴³ The Electronic Whorehouse by Paul Sheehan Pan Macmillan Australia 2003
- ⁴⁴ Ibid See page 31
- ⁴⁵ Janet Fife-Yeomans, The Australian 13/5/1997 pg 15
- ⁴⁶ WA Police News editorial February 2002
- ⁴⁷ Ibid.
- ⁴⁸ See www.thelosthaven.co.uk/1984Cont.htm
- ⁴⁹ See Report by Detective Sergeant 3rd Class J.S.Davidson 3/4/1987
- ⁵⁰ St George and Sutherland Leader, 5/9/1985)
- ⁵¹ See YM 1's Victoria Police Docket Sheet-antecedent details
- ⁵² See YM 1's Victoria Police Docket Sheet-antecedent details
- ⁵³ Daily Mirror 10/9/1985-See also Playboy articles December 1980 and January 1981
- ⁵⁴ Daily Mirror 10/9/1985
- ⁵⁵ Daily Mirror 1/9/1985
- ⁵⁶ See [http://www.lawlink.nsw.gov.au/sc%5Csc.nsf/pages/sp 60999- Royal Commissions: A Prelude to the Reform Process Address by the Hon. James Wood Chief Judge at Common Law of the Supreme Court of NSW to the IACOLE conference in Sydney 6 September 1999](http://www.lawlink.nsw.gov.au/sc%5Csc.nsf/pages/sp%2060999-Royal%20Commissions%20A%20Prelude%20to%20the%20Reform%20Process%20Address%20by%20the%20Hon.%20James%20Wood%20Chief%20Judge%20at%20Common%20Law%20of%20the%20Supreme%20Court%20of%20NSW%20to%20the%20IACOLE%20conference%20in%20Sydney%206%20September%201999)

- ⁵⁷ See http://www.lawlink.nsw.gov.au/sc%5Csc.nsf/pages/sp_60999- Royal Commissions: A Prelude to the Reform Process Address by the Hon. James Wood Chief Judge at Common Law of the Supreme Court of NSW to the IACOLE conference in Sydney 6 September 1999
- ⁵⁸ In addition to Court transcripts see also Sydney Morning Herald article by Stephen Gibbs 'Justice for victims of gross police hypocrisy' 2/7/2001.
- ⁵⁹ See Byers evidence 26/3/2001
- ⁶⁰ In addition to Court transcripts see also Sydney Morning Herald article by Stephen Gibbs 'Justice for victims of gross police hypocrisy' 2/7/2001.
- ⁶¹ See evidence of Allen at committal proceedings
- ⁶² See Royal Commission transcript pg 27592 / See also Sydney Morning Herald report 26/6/1996 pg 11 "Veteran quits over one act of corruption".
- ⁶³ See Sydney Morning Herald 26/6/1996
- ⁶⁴ See: The Advertiser (Adelaide) Edition 1 -21/2/2003, Pg 16, 'Officer `corrupt' in graft inquiry work' by Michael Owen-Brown; Police Ethics by Seumas Miller, John Blackler and Andrew Alexandra (Allen and Unwin) pg 198 ; Originally reported in Sydney Morning Herald article by Ben Hills (1997) 'Sacked Trainee "Encouraged" to work in brothel' 18/1/1997 pg 7
- ⁶⁵ Police Ethics by Seumas Miller, John Blackler and Andrew Alexandra (Allen and Unwin) pg 198 / Originally reported in Sydney Morning Herald article by Ben Hills (1997) 'Sacked Trainee "Encouraged" to work in brothel' 18/1/1997 pg 7
- ⁶⁶ See page 198 Police Ethics by Seumas Miller, John Blackler and Andrew Alexandra (Allen and Unwin)
- ⁶⁷ See link to transcript at <http://www.aph.gov.au/house/committee/laca/crimeinthecommunity/transcripts/20febofficial.pdf>
- ⁶⁸ See: The Advertiser (Adelaide) Edition 1 -21/2/2003, Pg 16, 'Officer `corrupt' in graft inquiry work' by Michael Owen-Brown;
- ⁶⁹ The Advertiser (Adelaide) Edition 1 -21/2/2003, Pg 16, 'Officer `corrupt' in graft inquiry work' by Michael Owen-Brown
- ⁷⁰ See address by Justice Wood to 8th International Anti Corruption Conference
- ⁷¹ See address by Justice Wood to 8th International Anti Corruption Conference
- ⁷² See http://www.lawlink.nsw.gov.au/sc%5Csc.nsf/pages/sp_60999- Royal Commissions: A Prelude to the Reform Process Address by the Hon. James Wood Chief Judge at Common Law of the Supreme Court of NSW to the IACOLE conference in Sydney 6 September 1999
- ⁷³ See address by Justice Wood to 8th International Anti Corruption Conference
- ⁷⁴ See address by Justice Wood to 8th International Anti Corruption Conference
- ⁷⁵ See http://www.lawlink.nsw.gov.au/sc%5Csc.nsf/pages/sp_60999- Royal Commissions: A Prelude to the Reform Process Address by the Hon. James Wood Chief Judge at Common Law of the Supreme Court of NSW to the IACOLE conference in Sydney 6 September 1999
- ⁷⁶ Re cost of Royal Commission see 'The Whistleblowers' article-by Stephen Gibbs The Daily Telegraph 24/5/1997, Pg 034
- ⁷⁷ See Sydney Morning Herald article by Darren Goodsir and Stephen Gibbs 'Bent police clean-up snares just 12 officers' 2/7/2001 pg 1.
- ⁷⁸ Sydney Morning Herald article by Darren Goodsir and Stephen Gibbs 'Bent police clean-up snares just 12 officers' 2/7/2001 pg 1.
- ⁷⁹ Sydney Morning Herald article by Darren Goodsir and Stephen Gibbs 'Bent police clean-up snares just 12 officers' 2/7/2001 pg 1.
- ⁸⁰ Section 181D provides that the Commissioner may remove a police officer from the NSW Police if the Commissioner does not have confidence in the officer's suitability to continue as a police officer having regard to the officer's competence, integrity, performance or conduct. Section 181D(7) provides that apart from the Industrial Relations Commission, no tribunal has jurisdiction or power to review or consider any decision or order of the Commissioner under that section. (<http://www.lawlink.nsw.gov.au/adb.nsf/pages/policeservice04>)
- ⁸¹ See Sydney Morning Herald article by Stephen Gibbs 'Justice for victims of gross police hypocrisy' 2/7/2001.
- ⁸² Sydney Morning Herald editorial 3/7/2001
- ⁸³ See also reference in the WA Police News February 2002 as to the number of suicides from the Wood Royal Commission / See also The West Australian newspaper 4/1/2002 'Police told of inquiry suicide risk'.
- ⁸⁴ For examples see the Gretley Mine Disaster Royal Commission, the Waterfall and Blue Mountains Train crash enquiries
- ⁸⁵ See NSW Legislative Council Questions and Answers for 6 September 2001-Second session of the 52nd Parliament.
- ⁸⁶ See NSW Legislative Council Questions and Answers for 6 September 2001-Second session of the 52nd Parliament.
- ⁸⁷ See http://www.lawlink.nsw.gov.au/sc%5Csc.nsf/pages/sp_60999- Royal Commissions: A Prelude to the Reform Process Address by the Hon. James Wood Chief Judge at Common Law of the Supreme Court of NSW to the IACOLE conference in Sydney 6 September 1999

⁸⁸ See http://www.lawlink.nsw.gov.au/sc/%5Csc.nsf/pages/sp_60999- Royal Commissions: A Prelude to the Reform Process Address by the Hon. James Wood Chief Judge at Common Law of the Supreme Court of NSW to the IACOLE conference in Sydney 6 September 1999

⁸⁹ House of Lords 1932

⁹⁰ See 'WHEN PROSECUTORS PREPARE COOPERATORS' by Joel Cohen-partner at Stroock & Stroock & Lavan LLP. -Formerly served as a prosecutor with New York's State Special Prosecutor and then the United States Justice Department's Organized Crime & Racketeering Section. He is an Adjunct Professor of Professional Responsibility at Brooklyn Law School. See also <http://www.cardozo.yu.edu/cardlrev/v23n3/JCohenglyfinal.pdf>

⁹¹ Sun Herald 23/3/1999 by Candace Sutton-the informant discusses lying about police and making allegations about Ray McDougall.

⁹² See R v Peter Karamihalis @ Kay, Bill Bayeh before His Honour Judge Gibson on Monday 17/8/1998; also R v Peter and Roula Kay before His Honour Judge Viney on 9/12/1999

⁹³ See link to transcript at

<http://www.aph.gov.au/house/committee/laca/crimeinthecommunity/transcripts/20febofficial.pdf>

⁹⁴ The Senior Counsel of the Wood Royal Commission involved in this particular Kings Cross 'hot heroin' operation was John Agius-later to be the Prosecutor for the Western Australian Police Royal Commission and but earlier a member of a panel of 'community experts' hand-picked by the NSW Police Service to help fight organised crime, drug trafficking, kidnapping and money laundering has been named. (Papadopoulos 1997).

⁹⁵ 60 Minutes transcript 'Dirty Work' 30/3/2003-Geoff Wegg / See also Sun Herald article 15/12/2002 by John Kidman pgs 4 & 5

⁹⁶ See transcript of 60 Minutes story 'Dirty work' 30 March 2003

⁹⁷ See transcript of 60 Minutes story 'Dirty work' 30 March 2003

⁹⁸ See transcript of 60 Minutes story 'Dirty work' 30 March 2003-tape of Agius speaking to informant KX15

⁹⁹ See R v Peter and Roula Kay, 9th December 1999 before Judge Viney (pg 26).

¹⁰⁰ For references to the 'Hot Heroin' by His Honour see pages 7,8, 11, 14, 15, 16, 17,20,21, 23, 26, 27, 28, 29, 30, 32, 33 and 34 .

¹⁰¹ See transcript of 60 Minutes story 'Dirty work' 30 March 2003

¹⁰² See Australian Institute of Criminology paper No. 188 'Heroin Overdoses and Duty of Care' by Paul Williams and Gregor Urbas.

¹⁰³ Sydney Morning Herald 16/12/2002 'Heroin deaths ICAC territory:Costa' by Les Kennedy.

¹⁰⁴ Law Enforcement News Vol. XXV, No. 514 *A publication of John Jay College of Criminal Justice / CUNY* June 30, 1999