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Time for Victorians to Scream 'Blue Murder', Community Lawyers Say

The recent Office of Police Integrity (OPI) hearings into police corruption have shown that Victoria has its own version of 'Blue Murder', says the Federation of Community Legal Centres.

'Blue Murder' was the television drama based on the real-life widespread corruption in the Queensland police force in the 1980s that led to the Fitzgerald Inquiry.

'Here in Victoria in 2007, we now have several damning reports and public hearings, and yet the OPI and the Ethical Standards Department are allowing police corruption, misconduct and violence to go unchecked,' says Police Issues spokesperson for the Federation, Will Crawford.

Community Legal Centres add examples from their own work to this background, including an allegation that a senior constable struck a community legal centre client, Mr Ahmed Dini, in the mouth with a torch.

The charges against Mr Dini were subsequently dismissed, and the constable has not been charged. 'We complained to the OPI 18 months ago and we have heard nothing,' says Tamar Hopkins, a solicitor at Flemington-Kensington Community Legal Centre.

It is also alleged that an ESD investigator persuaded the senior constable to change his evidence during a lunch break at court. The OPI has given this complaint to the ESD to investigate.

Will Crawford says that the low percentage of ESD findings of police misconduct discourages the community from making complaints.

Dr Ian Freckelton, a barrister who was counsel assisting Victoria's Police Complaints Authority in the late 1980s, says the difficulties and lack of success of police investigating police have been documented for at least a quarter of a century in Australia. 'It is essential that a fully independent entity be created to investigate corruption and misconduct by employees of government.'

The Federation is calling for the establishment of an independent and well-resourced Anti-Corruption Commission, as has occurred in Queensland, New South Wales and Western Australia.

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About the Federation: The Federation of Community Legal Centres is the peak body for Victoria's 52 community legal centres (CLCs). CLCs provide free legal advice, information and referral, provide community legal education and conduct law reform and policy activities to develop a fairer justice system that better responds to the needs of their clients. www.communitylaw.org.au

Background brief

Examples of police corruption and misconduct

In the recent OPI report, *A Fair and Effective Victoria Police Discipline System* (October 2007), and the *OPI Annual Report 2006-2007*, numerous cases of misconduct, abuse and violence are identified.

Little is being done to discipline police members subject to multiple complaints.

Example 1 (*A Fair and Effective Victoria Police Discipline System* pp 37-8)

A Senior Constable kicked down a door without a warrant and punched the accused in the face several times so that he required hospitalisation. The charges against the accused were thrown out of court, and he subsequently sued for civil damages for his hospitalisation and injuries, and received \$1 million.

The Senior Constable's entry to the property was found to be unlawful, but he was not charged with assault. Disciplinary proceedings commenced against him, but the police hearing officer incorrectly applied the 'beyond reasonable doubt' test of proof and dismissed the charges.

Example 2 (*A Fair and Effective Victoria Police Discipline System* p 41)

A Constable with a number of complaints against him, including assault, negligently shot a person resulting in a five-figure payout. Soon after this, another allegation arose that he had planted drugs and assaulted a person while arresting them for indecent language (the charge against them was eventually dismissed).

Five months later, further allegations emerged that the Constable had slapped, abused and lashed out at a suspect with his baton during an arrest. At the resulting hearing, the Magistrate found that the Constable had lied on oath and committed unprovoked assaults, and the charges against the suspect were dismissed.

Despite being now the subject of **nine** complaints, with a further six found to be inconclusive or unsubstantiated, the police officer was promoted to Senior Constable. After another **eight** official complaints of violence and misconduct, the Senior Constable was promoted to Sergeant. When he retired, no disciplinary action had ever been taken against him.

Example 3 (*OPI Annual Report 2006-2007* p 38)

A police officer, in the process of an arrest, allegedly hit a 16 year-old boy several times with a torch, saying 'This is what you get for running away from police.' An ESD investigation found the complaint to be unsubstantiated, despite not interviewing any of the youths who were present at the scene and who had given their details to police.

The OPI compared to comparable authorities in other States

Office of Police Integrity (Victoria)

(source: *OPI Annual Report 2006-2007* p 42 <http://www.opi.vic.gov.au/www/html/67-media-and-publications.asp>)

- 16% of complaints found to be not in jurisdiction or not to warrant investigation
- 9% of complaints referred to Police for resolution
- 65% of complaints **first investigated or conciliated by police**, then reviewed by OPI
- 7% of complaints under assessment or preliminary inquiry
- **3%** of complaints investigated by OPI

Police Integrity Commission (NSW)

(source: *PIC Annual Report 2006-2007* pp 42-3 <http://www.pic.nsw.gov.au/Reports.aspx>)

- 7% of complaints found not to contain allegations of police misconduct
- 39% of complaints usually referred to Police
- **54%** of complaints investigated by PIC

Crime and Misconduct Commission (Qld)

(source: *Crime and Misconduct Commission Annual Report 2006-2007* pp30-31 <http://www.cmc.qld.gov.au/asp/index.asp>)

- **complaints include non-police:** police complaints are 57% of total
- 17% of complaints assessed as not requiring further action by anyone
- 81% of complaints referred to relevant agency
- 2% of complaints investigated by CMC

Corruption and Crime Commission (WA)

(source: *Corruption and Crime Commission Annual Report 2006-2007* p 22 <http://www.ccc.wa.gov.au/>)

- **complaints include non-police:** police complaints are 57% of total
- 15% of complaints had no action taken
- 71% of complaints referred to the 'home agency' for investigation
- 6% of complaints referred to Police for external investigation
- 7% of complaints referred to Police and home agency
- 0% of complaints referred to independent investigator

Police Complaints Authority (SA)

(source: *Police Complaints Authority Annual Report 2005-2006* pp 5-17 <http://www.pca.sa.gov.au/PCAannualreport.htm>)

- 52% of complaints not investigated or investigated no further
- 37% of complaints resolved by conciliation
- 10% of complaints fully investigated and formally assessed by PCA

Conclusion

Former Justice Don Stewart, the former head of the National Crime Authority, recently stated, 'You can't let the police investigate themselves, it doesn't work, never has done, never will.'¹

Mr Stewart noted that after the Royal Commission conducted by Mr Justice James Wood exposed substantial corruption in the New South Wales Police Force, the Police Integrity Commission was set up at Justice Wood's suggestion.

'That was to be a body that looked towards maintaining police integrity and dealing with people who were corrupt. And one of the conditions was that no New South Wales police officer, or anyone who had anything to do with a New South Wales police officer, could be associated with the PIC in any way whatsoever. That includes me -- not that I want to become part of the PIC -- it includes me because I used to be a police officer myself, and rightly so, there can't be any exceptions.'

¹ Interview, *Law Report*, Radio National, 6 November 2007.