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CSIRO bullying probe rebuffed

A group of former CSIRO staff have refused to support an inquiry the nation's peak scientific body established to investigate claims of bullying, intimidation and other allegations of serious misconduct. More than 100 scientists and former CSIRO staff formed the "Victims of CSIRO" (VoC) group in 2012 claiming the organisation had not tackled bullying and harassment allegations (OHN 979). Former CSIRO employee Andrew Hooley, who established the VoC, told *OHN* "the current investigation is not in the public interest, constitutes a gross miscarriage justice and is effectively a gross misuse of public funds which should be allocated to a transparent and legitimate investigation process". "We have recommended to our members that we do not support participation in the process," he said. CSIRO released the terms of reference (ToR) for an independent investigation it initiated last month to examine allegations of bullying and unreasonable behaviour (OHN 1003). Emeritus Professor Dennis Pearce will lead the investigation with a team from HWL Ebsworth Lawyers. They will directly receive submissions from current and former CSIRO staff members and affiliates and examine those that warrant further investigation. Pearce is expected to deliver an interim report in May, after submissions close on May 27. "We are disappointed the VoC will not support the independent investigation," a CSIRO spokesperson told *OHN*. "We urge others who wish to have their concerns investigated to go to the independent investigator."

CSIRO says some claims 'dodgy'

CSIRO deputy chief executive of operations Mike Whelan told a Senate estimates committee in Canberra in February some of the claims on the VoC website were "dodgy". "Lots of allegations have been tossed around by stakeholders and media in recent times and I would have to say the basis for some is pretty dodgy," he said. "Over the last three years, to October 2012, there have been 11 allegations of bullying and harassment made in the CSIRO and 10

of those have subsequently not been substantiated." Whelan criticised claims made on the website. "There are entries that purport to detail the case studies of at least 14 victims of CSIRO and I know for a fact two of the individuals cited there have indicated to CSIRO that they are not victims, that they have not supported the material being put on that website and that they are uncomfortable about being associated with this," he said. Hooley accused Whelan of "pre-judging" the investigation's outcome, which was "inappropriate given CSIRO's legal department have largely been responsible for drafting the ToR document". He lobbied for a "truly independent investigation" because many VoC members were "terrified of the ramifications in making public disclosures of information". "Most of the allegations submitted are likely to be invalid for consideration in the second more thorough phase within the current ToR," he said. "(The ToR) does not oblige CSIRO to act on the findings or even publish the findings, the process is not transparent and does not allow for any challenge to the findings." In December, Comcare issued CSIRO a work health and safety improvement notice and ordered it to review its management of workplace misconduct and bullying. In a bulletin to the organisation's 6,600 workers, CSIRO chief executive Megan Clark said its Black Mountain installation in Canberra was now fully compliant with the improvement notice. The CSIRO spokesperson told *OHN* the notice related to procedures that dealt with people with a pre-existing mental health condition.

Mirabella claims briefing not forthcoming

The Coalition has complained it was not briefed on the inquiry details. A spokesperson for shadow science minister Sophie Mirabella told *OHN* a "promised" briefing was an email "shortly before they were publicly released". "We weren't briefed, we were emailed," the spokesperson said. The CSIRO spokesperson said "Mirabella's office was briefed on the terms of reference by the minister's office".

Fatigue a 'hidden problem'

Many businesses fail to understand the safety risks associated with fatigue, according to a fatigue expert. Michael Adeney, whose organisation Fatigue Safety works with rail, road transport, energy, manufacturing, mining and emergency services organisations to minimise their fatigue risks, told *OHN* about 40% of truck drivers suffered sleep apnoea compared to 5% of the wider population. While shift work made workers vulnerable to fatigue, sedentary lifestyle and poor diet contributed to the problem. "There is no one silver bullet for fatigue and we need to help people understand the risks."

Factors that impact fatigue levels include shift work and the amount and quality of sleep before a shift. Adeney said fatigue rivalled alcohol in terms of impairment. A person who wakes up at 8 o'clock after a good sleep and stays awake for 17 hours will perform the same as someone with a blood alcohol content (BAC) of 0.05. At 22 hours, the equivalent BAC increases to 0.1. Self-assessment was notoriously inaccurate because "when we become dangerously fatigued, we think we are OK", Adeney said.

Poor sleep was at "epidemic levels" and yet sleep quality is critical to overcoming fatigue. The average number of sleep hours a night was seven-and-a-quarter, down one-and-a-half hours since the electric light bulb was introduced in the 1900s. "There are some scary studies out there about not getting enough sleep year after year and links to cancer, diabetes, heart disease and Alzheimers," he said. "Lack of sleep can compromise your immune functions and there are long-term health and wellbeing consequences." He said caffeine and alcohol disrupted sleeping patterns.

Adeney is one of the speakers for the Safety In Action 2013 conference in Melbourne on March 19-21.

Australia's workplace death rate among the worst

Australia's record for workplace deaths is among the worst in the world when compared to other similar jurisdictions, according to a legal expert in gross negligence manslaughter and disaster litigation. Gerard Forlin QC told *OHN* driving-related deaths had contributed to Australia's high workplace death rate. He said driving-related incidents in Australia eclipsed those in industrialised countries such as Britain. "A third of driving deaths occur in a work scenario," he said. "There are lots of reasons – distance, risks of animal strikes and weather."

Forlin has been involved in more than 250 fatality cases, including British cases such as the Hatfield rail

crash and the Britannia Airways crash. Forlin, who delivered a keynote presentation at last month's Australasian Oil and Gas conference in Perth, said prosecutors were more willing to target senior managers and boards in the aftermath of workplace incidents and near misses.

He said the trend applied not just to oil and gas companies but to contractors and other industries such as aviation and chemical. "Oil and gas is in no different a position to other industries and sectors," he said. "Industries such as nuclear also have the capacity to have major incidents."

Contractors 'a major factor' in workplace deaths

Forlin said most workplace incidents can be traced to "some sort of systemic failure", and were complicated by the issue of contractors. "There must be cooperation between various layers to avoid breaches by contractors," he said. "Contractor issues are a major factor in the death rates at work inside Australia, including driving death rates."

Overcoming the language barrier was critical to safety. "Systems need to be in place to make sure that if risk assessments are done and disseminated then they are adequately translated to make sure that contractors understand," he said. "Following up on issues that internal and external audits highlight is increasingly vital."

Prosecutors and regulators were more inclined "to look beyond the immediate cause to systemic failure in these cases and stop blaming the frontline operator even if they did make a mistake". "The system should anticipate that mistake and mitigate consequences of inevitable human error," he said. "I think regulators are asking more probing questions. There is a greater cooperation with regulators around the world and greater willingness of regulators to prosecute at global level and corporate bodies."

WHS laws in a state of 'disharmony'

A barrister with Cornerstone Barristers in London, Maxwell Chambers in Singapore and Denman Chambers in Sydney, Forlin said attempts to harmonise Australia's work health and safety (WHS) laws "seemed to be in a state of disharmony". However, streamlining the WHS system made it easier for multi-jurisdictional corporations to navigate the various laws and regulations. The laws governing the oil and gas industry were more complex, with different regulations for offshore and onshore operations. "As a concept, harmonisation makes a lot of sense in terms of cost and continuity," he said. "Outside of Australia, organisations should try to work to the highest bar not lowest. One of the big problems is who has got jurisdiction and what laws apply."

Coalition hints at Comcare plans

The Coalition has hinted at changes to the Comcare scheme should it win Government this year. Opposition workplace relations spokesman Senator Eric Abetz quizzed Comcare chief executive Paul O'Connor about the federal safety regulator's workload at last month's Education, Employment and Workplace Relations Legislation Committee hearing. Abetz asked O'Connor whether Comcare could handle any more business, igniting speculation the Coalition could broaden the Commonwealth system. Asked what changes the Coalition planned to introduce, Senator Abetz told *OHN*: "As with many other issues at Senate Estimates, we were seeking to establish Comcare's current workload and scope for future work. The Coalition will have a policy in good time before the next election."

Injured workers face health risks

Injured workers who have not returned to work within a year are six times more likely require mental health treatment than those who returned after a month, new Victorian data reveals. Vic Assistant Treasurer Gordon Rich-Phillips said WorkSafe Vic had launched a campaign in response to the statistics to encourage injured workers to return to work. "Being off work for an extended period of time can be extremely detrimental to a worker's health," he said. In 2012, 5% of injured workers who were off work for at least four weeks accessed mental health treatment. After six months off work, 18% sought help and after a year, 30% had mental health treatment, Rich-Phillips said. WorkSafe Chief Executive Denise Cosgrove said if an injured worker is not at work for more than 20 days, they have a 70% chance of returning. After 70 days, it falls to 35%.

Doctor stress under microscope

The Australian Medical Association (AMA) has announced a national mental health survey to be distributed to 50,000 doctors and medical students in metropolitan and regional Australia. The survey, in conjunction with mental health group beyondblue, will examine the stresses and pressures doctors and students experience and the impact on their mental wellbeing. AMA vice president, Professor Geoffrey Dobb, said doctors were at greater risk of mental illness and stress-related problems, and depression and anxiety were common in the medical profession. "The suicide rate among doctors is higher than in the general population, and we know that medical students experience higher rates of depression and stress," he said in a statement. He said the survey would strengthen awareness of mental health issues and the results

would help with developing ways to curb depression and anxiety within the profession.

Mighell tackles suicide prevention

Former Electrical Trades Victorian secretary Dean Mighell is in talks with unions and employer groups to establish a program to reduce the suicide rate among young male construction workers.

The program will be modelled on Queensland's Mates in Construction (MIC), a charity founded in 2008 to reduce the high suicide rates in the Queensland construction industry. It runs training programs to improve the mental health and wellbeing of workers and is funded by unions and employer groups.

Young construction workers two times more likely to suicide

MIC's website states the suicide rate for young workers in the Qld construction industry was more than two times higher than the national average for men. This meant a construction worker was up to six times more likely to die from suicide than a workplace incident.

"The construction industry is a blokey industry and blokes are horrible at putting their hand up with a problem," Mighell told *OHN*. "We are not open to sharing our problems – that's the nature of the industry. We want to make it okay to talk about it and educate people to read the signs in co-workers."

Mighell resigned last week as Victorian secretary of the ETU but remains as an employee. His new role will be to oversee the union's business interests and launch new initiatives, such as the worker suicide prevention program.

The program will include a two-hour training session for all construction workers, and an intensive, two-day session for some to identify mental health troubles in colleagues and encourage them to seek professional help.

Since launching in October 2008, MIC said more than 18,000 workers have participated in general awareness training, 1,500 worked as "connectors" and 200 trained as suicide first aid workers. Removing the stigma associated with mental health troubles underpinned its success, the organisation said.

Mighell hopes to replicate MIC's success in Victoria, and is in negotiations with the Construction Forestry Mining Energy Union to support the program.

He also plans to speak to the Plumbers Union, the Australian Workers Union, the Australian Manufacturing Workers Union and the employers groups in the coming weeks. "The construction industry is male-dominated and sadly the pressures means there is a disproportionate number of young people who take their own lives," he said.

Wood industry receives safety plan

WorkCover NSW has launched an action plan for the wood manufacturing industry in a bid to reduce workplace injuries. The action plan will address five issues: manual tasks at the workshop; manual tasks at client sites; guarding on machines and powered hand tools; occupational disease from exposure to wood dust and noise; and return to work and injury management. The industry saw 1,965 NSW workers' compensation claims in the three years to 2010 for a range of injuries and illnesses, according to WorkCover. They included muscular injuries when carrying or putting down timber and wounds from industrial guns or saws - a cost of \$19.5 million to the NSW w/ comp scheme. The wood products manufacturing industry is comprised of more than 2,000 businesses involved in manufacturing wooden doors, kitchen cabinets, roof trusses and windows.

Language and culture barriers to safety

WorkCover work health and safety division general manager John Watson said industry and businesses consulted on the development of the plan said language and culture were barriers to safety. Watson said: "The plan identifies a need for one-on-one support and access to quick and easy to use information and resources that help businesses improve safety and injury management. Over the coming months we will be working with our six industry action partners to develop tools and incentives to help businesses improve safety such as information kits, rebates, events and safety coaches."

Furnishing Industry Association of Australia, Timber Trade Industrial Assoc of Australia, Timber and Building Materials Assoc, Housing Industry Assoc, Master Builders Assoc and the Construction Forestry Mining Energy Union's forestry and furnishing products division will work on the plan rollout.

Vic Court dismisses Duma appeal

The Victorian Supreme Court of Appeal has dismissed an appeal against a decision that Mader International failed to reduce the risk of an employee incurring musculoskeletal disorder. In 2005, manufacturing employed Mihajlo Duma as a motor mechanic when he suffered a neck injury while working underneath a vehicle. Duma launched civil action in 2010 against Mader in the Vic County Court, seeking damages for common law negligence. The trial judge found there had been no breach of regulations causing Duma's injury. In his appeal, Duma argued that on the evidence it has not been open for the jury to find Mader had not breached its statutory duties. However, Justices Marcia Ann Neave, Pamela Mary

Tate and Jennifer Davies unanimously dismissed the appeal. Justice Tate said: "[Duma] seeks orders setting aside the verdict of the jury and the orders made in the County Court in favour of the respondent. In my opinion, it was open for the jury to find as they did. I consider that the jury was entitled not to be persuaded that there was a breach by the respondent which caused the appellant's injury." (*Duma v Mader International Pty Ltd* [2013], VSCA23, 20/02/2013)

Court dismisses mine worker's bid

The Federal Magistrates Court has dismissed a Kalgoorlie mine worker's bid for a deadline extension to launch action against CPC Engineering over his dismissal. David McPaul claimed that being self-represented prevented him from not knowing the time limits for his application, which expired on September 19, 2012. McPaul said he first became aware of the time limit on October 30, 2012. However, the court found McPaul failed to make out a case warranting an order for an extension of time, with aspects of his explanation "unsatisfactory". The court dismissed the application. (*McPaul v CPC Engineering Pty Ltd* [2013], FMCA71, 15/02/2013)

Magistrate alters Hawker affidavits

The Federal Magistrates Court has struck out parts of several affidavits in a case concerning a worker who alleged her employer dismissed her after inquiring about its safety compliance, on the grounds they were argumentative. Madeleine James alleged Hawker Geological Services breached the Fair Work Act by dismissing her after she made inquiries into the company's practices and policies regarding compliance with health and safety-related inspections and mining regulations. The court struck out several paragraphs of both James' and Hawker's affidavits, on the basis they were irrelevant and inadmissible. The hearing is set for April 15, 2013. (*James v Hawker Geological Services Pty Ltd* [2013], FMCA 96, 15/02/2013)

Bullying inquiry flagged

Victorian Greens MLC Sue Pennicuik has told *OHN* associate news service *Workers Compensation Report* she intended to garner cross-bench support for a parliamentary review on alleged workplace bullying within Vic WorkSafe. She said she would raise the motion in April. Her proposed terms of reference indicated she wanted an inquiry to focus on the "efficacy" of WorkSafe's procedures for dealing with external complaints it receives; the extent of bullying within WorkSafe; WorkSafe's procedures for internal complaints about bullying and harassment; and any other relevant matters.

THE WORLD VIEW

Abstracts from the world's occupational health literature. An occasional series compiled by **Dr Graham Hall**, MPH, FRACP, FAFOEM, occupational physician.

Does enforcement inspection by regulatory authorities such as OSHA reduce work-related injuries

Many studies have shown that inspections by the US's OSHA and related bodies improve compliance with regulations but there have been variable results for their effect on workplace injuries. In this study 10 years (1999-2008) of data on two thirds of the workforce of Washington State were pooled. Self-insurers, companies with more than one work location and those insured under the federal system were excluded. All other firms with 10 or more employees in a single location were included. Businesses were divided into fixed and non-fixed worksites - eg construction and transport companies. Each year was analysed using data from a two-year pre-intervention period; the intervention year, and a one-year post-intervention period to assess the effect of intervention. The results from these 10 'annual' studies were then pooled. DOSH (the OSHA state agent) performed enforcement inspections on only 7% of businesses (5% one, 2% two or more inspections). An additional 2% had requested a consultation from DOSH for help to improve health and safety management. In the 93% of worksites not inspected there was a fall in lost-time workers' compensation claim incident rates (CIRs) in nine of the 10 years and overall by -3.6% annually for fixed sites and -4.4% for non-fixed. This was exceeded in inspected fixed sites by a significant 4.3% (overall -7.9%) and in non-fixed by 3.1% (overall -7.5%). While no significant effect was seen from consultation at fixed worksites a significant reduction in lost-time CIRs was seen in the non-fixed; 8.5% greater than in non-inspected firms (overall -12.9%). There was a highly significant reduction in medical-only CIRs for fixed worksites but no reduction for non-fixed. After consultation non-fixed sites showed a significant reduction in medical-only CIRs, not seen in the fixed. A possible reason for this is that a construction company obtaining advice for one site might extend the lessons to improve safety across all its sites. Workers' comp claims were then divided into 'musculoskeletal' (MSK) and 'other'. An earlier response could be expected in non-MSK conditions such as fractures, lacerations and falls from improved compliance with machine guarding, lock out, and fall hazards, whereas the incidence of MSK conditions would be less affected by OSHA regulations, more by

previous exposure, and so would take longer to respond. This proved to be the case for both lost-time and medical-only CIRs and the authors recommended a longer post-intervention phase to assess the effect on MSK claims. *Foley M, Fan ZJ, Rauser E, et al. The impact of regulatory enforcement and consultation visits on workers compensation claims incidence rates and costs 1999-2008. American Journal of Industrial Medicine 2012; 55: 976-990.*

Cost-effective implementation of a participatory ergonomics program in a Canadian shirt factory

Most studies of participatory ergonomic programs (PEPs) have not addressed the economic aspects, surprising since a major objective is to reduce the cost of work-related injuries and illness. In this shirt factory the objective was to reduce musculoskeletal (MSK) complaints. There were two components: a proactive approach to the design of equipment and processes using ergonomic best practice; and a reactive process identifying opportunities for improvement; developing and implementing solutions; re-evaluating and if necessary repeating the cycle. An ergonomic change team (ECT) was formed including two research ergonomists who trained management and union representatives. Changes in 27 operations were made for 97 workers by plant mechanics and maintenance staff. They were mostly low technology, such as equipment modification and adjustment, and were associated with a significant increase in productivity. MSK symptoms were assessed by pain questionnaires administered in June 2001 and 20 months later with improvements recorded in the 97 change group members. At that point a one-on-one 30-90 minute interview was conducted by a member of the ECT. Data was obtained from payroll, HR and workers compensation, for the 72 weeks before intervention, 100 weeks of the intervention, and 44 weeks post-intervention (January 2000-February 2004). Intervention costs were \$65,787; benefits \$360,614; a gain of \$294,827 with a cost benefit ratio of 5.5. The intervention was associated with significant reductions in first aid cases (by 35%); modified duty cases (by 50%); days of casual absence (by 23%) and the number (by 42%) as well as the duration of long-term absences (by 93% from 24.73 to 1.73 days!). The number of workers' compensation claims and the duration on modified duties however did not change. Two productivity measures improved: percentage right first time and percentage efficiency. *Tompa E, Dolinschi, R Natale J. Economic evaluation of a participatory ergonomics intervention in a textile plant. Applied Ergonomics 2013; 44: 480-487.*

WorkCover issues vehicle warning

WorkCover NSW has encouraged businesses to develop safe work method statements for tasks involving vehicles after four NSW workers were struck and killed by mobile plants over the past seven months. A reversing front end loader sweeping grain at a Wee Waa storage facility struck and killed a worker in a February 19 incident. WorkCover work health and safety general manager John Watson said 10 workers have been killed and 2,089 workers injured at cost of \$39m to the NSW workers' compensation system over the past five years. "We're issuing an urgent plea to all workers and business that use mobile plant to review their traffic control procedures," he said in a statement.

Other recent incidents include a worker at a paper recycling plant at Smithfield struck by a reversing front end loader in December 2012; a plumber hit by a reversing truck at an Artarmon industrial estate in industrial estate in August 2012; and an offsider hit by a car while directing a reversing truck at a Berowra service station in June 2012.

WorkCover recommended businesses: develop traffic control procedures which separate pedestrians from plant and equipment; develop safe work method statements; provide appropriate training and supervision to operators of mobile plant and equipment; and ensure mobile plant and equipment is suitable for the tasks to be performed and is maintained according to manufacturer's instructions.

AWU teams up with beyondblue

Australian Workers Union (AWU) national secretary Paul Howes has launched a partnership with mental health group beyondblue to disseminate information about depression and anxiety to union members in a bid to improve their mental wellbeing. Launched at the AWU national conference on the Gold Coast last month, Howes said work-related mental illnesses "imposed huge costs on both families and businesses". He described a "long-standing culture of workers in blue-collar industries hiding difficulties and trying to just tough it out". "As a result, problems are left untreated and allowed to spiral out of control," he said.

Howes said mental illness was the second biggest compensable illness in the workplace, representing

4.8% of serious claims. He estimated workers without access to paid sick leave collectively lost \$85m in income from depression. AWU and beyondblue produced posters and wallet cards containing information about depression and anxiety to be distributed to the union's 140,000 members in workplaces across the country. Howes said union delegates would be trained to identify mental health problems.

Return to work invites submissions

WorkCover SA has opened submissions to its 2013 Recovery and Return to Work awards, which aim to reward workers and those who have assisted them to recover and return to work following a workplace injury. In 2012, WorkCover SA recognised a cabinet maker who lost his fingers when his hand caught in a grinder, and a hospitality worker who tripped and fell in a drive-through bottle shop, causing significant damage to his Achilles tendons.

This year's awards, which carry the theme "Experience their journey", run across seven categories. The worker achievement award, employer excellence award and health and rehabilitation achievement award are among the categories. Nominations close April 2. The ceremony takes place on September 18, with each winner awarded prizes worth \$3,000 for their return to work achievements.

Diary

12-14 March: Australian Logistics Council 2013 forum looks at safety in the heavy vehicle industry at the Melbourne cricket ground.

19-21 March: Safety in Action 2013 conference features OHS presentations and exhibitors at the Melbourne Exhibition centre.

16-17 May: Safety Institute of Australia's 4th Annual NT OHS Conference 2013 will provide a mix of Territory and interstate speakers with presentations on contemporary and best practice OHS issues in Darwin.

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