



PUBLIC PERSPECTIVE

A Publication of the Community & Public Sector Union / Victorian Branch www.cpsuvic.org

Safety First

With the focus of our regulators and the media usually trained just on what's happening about private sector safety, Public Perspective champions the work going on quietly and unpretentiously to make our public sector workplaces safer

Fisho named HSR of the Year

For Fisheries Officer Harry Roeding, going about his role as Health and Safety Representative over the past few years, ensuring a better workplace, just made sense.

Never did Harry expect accolades for his work. Maximising workplace health and safety not only meant a more positive work environment – it benefitted everyone. So when he was named Health and Safety Representative of the Year he was pleasantly shocked.

"I didn't think I had a hope in hell given some of the great work HSR's do in Government and private workplaces around Victoria," he recalls. "It's a great honor and it not only belongs to me but the entire DWG who participated and contributed to a safer workplace for ourselves, visitors, contractors and colleagues."

Harry was recognised for his dedication to health and safety working amid a diverse and geographically extensive backdrop within the Fisheries Victoria office in Mornington of the Department of Primary Industries.

"Fisheries Officers work outdoors and on and around water all year round," he explains.

"There are many safety issues associated with the great outdoors and in and around the marine environment. Also being involved in enforcement, Fisheries Officers are often exposed to physical assault, intimidation and threatening behavior."

Harry's dedication to safety has resulted in a number of workplace improvements.

His recent safety achievements include instigating better traffic management strategies within the warehouse and organising an occupational therapist to provide better manual handling methods.

Harry was also proactive in the consultation process in adopting load-bearing vests for compliance duties to reduce the workplace safety incident reports relating to back injuries from wearing duty belts.

While important improvements, Harry believes his most significant safety achievement has been more subtle.

"My greatest achievement as a HSR is raising awareness of health and safety and the positives associated with having a safe workplace and getting all of the staff involved in Health and Safety initiatives," he says.

Harry's commitment to maximising workplace

safety hasn't always been easy as he's regularly had to negotiate with management for continued support of the safety initiatives.

"At times it can be challenging and frustrating but overtime I think the culture is changing within, from being reactive to much more proactive," he admits.

Despite some hurdles, Harry is happy with the progress made to date and positive about continuing to optimise safety within the workplace in the future.

"I think given the dynamic environment we operate in we do work extremely well as individuals and as an organisation in terms of health and safety. And with an increasingly proactive approach we can meet and resolve issues surrounding safety quickly and effectively."

"My greatest achievement as a HSR is raising awareness of health and safety and the positives associated with having a safe workplace"



<http://youtube/zCyBj7ujvW4>



Sheriff's & Safety

Five (5) Provisional Improvement Notices (PIN's) were issued by a sheriff HSR in late November 2011 about failings with their communication and safety duress system. The Notices were confirmed by WorkSafe but, over a year later, Justice still hasn't fixed the problem nor complied with OH&S law.

Flawed System Fails Sheriffs'

It wasn't a particularly dangerous warrant execution, or so it seemed, it should have been just routine, but then this particular member of the public became verbally aggressive and threatening.

A Sheriff's worst nightmare became the reality as the reliability of the radio system to activate the in-vehicle repeater (IVR) became the issue.

Difficulties with the portable radio's communicating with the Comms centre had long been the norm as was the difficulty in using the duress button on the radios but the ability to accurately locate a sheriff officer during a duress call became the last straw.

In affirming, the PIN's became no longer provisional and therefore endorsed by WorkSafe Victoria.

Not surprisingly, DOJ appealed the PIN's, but WorkSafe made a determination that the PIN's were relevant and affirmed the PIN's with additional time granted (6 months) to allow DOJ to comply.

WorkSafe then issued a further Improvement

Notice on the duress response protocol.

This was complied with by the development of a new script for the sheriff communication centre staff.

The sheriff HSR extended the timelines for compliance with the improvement notice, twice in good faith, on the basis that DOJ would investigate and implement an upgrading of the communication/duress system. NEC had provided a solution to the identified problems and provided costings for an upgrade and the solution was progressed as a brief by the Department for consideration by the Minister who said NO.

DoJ's non-compliance has now been notified in what will become an important test for the regulator enforcing health and safety laws with another public sector agency.

Sheriffs have been advised to undertake "LEAP profiles of defendants" and work 2 up for high risk warrant executions.



Fed Sec



The Australian Electoral Commission declared Karen Batt as the new CPSU SPSF Group Federal Secretary.

The final count was:

Karen BATT	7,864 (45%)
David CAREY	6,653 (38%)
Belinda SUGDEN	2,930 (17%)

Congratulations to Karen, who is also our Victorian CPSU Secretary and will take up the Federal Secretary role in an honorary capacity jointly with her Victorian responsibilities.

"Quality public services are the foundation of democratic societies and successful economies.

They ensure that everyone has equal access to vital services, including as health care, education, electricity, clean water and sanitation. When these services are privatized, maximizing corporate profits replaces the public interest as the driving force"

The Federal union plans to develop a nationally coordinated and targeted response to the attacks that are currently being made by State Governments on the job security and terms and conditions of our members.

There is much work to be done to build our union as a strong voice and key player on the national scene.



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Fire Safety



Briagolong crew taking a well-deserved break



DSE fire controller Brendan McCarthy with the PM

Safety in Numbers?

Community safety issues particularly policing numbers and prison terms are often issues in any election year, but as a recent report highlights, the combined impact is crippling our criminal justice system as assaults skyrocket.

Prisoner Influx 'Un-Sustainable'

Serious concerns have now been raised about the pressures that prison officers face each day to keep us safe with the Auditor General finding that the capacity of the male prison system to cope with the increase in prisoners is becoming unsustainable.

His report, tabled in Parliament, states that prison expansions have increased capacity by 53 per cent more than the prison system was originally designed for and capacity difficulties are compounded by the four to six-year lead time to construct a major prison facility.

Changes, for example to sentencing policy, that are likely to increase the rate of imprisonment have led Corrections Victoria to forecast that by 2016 the male and female prison systems will not have sufficient capacity to meet increases in prisoner numbers.

A substantial rise in the rate of serious prisoner incidents has occurred at the same time as prison capacity pressures have increased with the rate of serious incidents per prisoner, such as assaults, attempted suicides and self-mutilation, has almost doubled over the past 6 years.

The heavy reliance on temporary beds and double bunking has resulted in male prisons containing 22 per cent more beds than the infrastructure can support and up to 34 per cent of the total prisoner population currently

housed in accommodation that does not comply with CV's standards, which recommend single cell accommodation.

The AG also noted that prisoner support programs and health services have not kept pace with the growth in prisoner numbers, primarily because funding for temporary beds prior to 2009-10 has not included allocations for these services with the high numbers of CV prisoners in police cells is well beyond what Victoria Police and CV deem to be satisfactory.

It creates unacceptable health and safety risks for the prisoners, compromises rehabilitative outcomes and places an additional strain on police operations, he concluded.

Many young people and adults in our criminal justice system suffer poor mental health and have low levels of education.

If we're to break the cycle of crime among our young we need a strong criminal justice system staffed by officers who are respected. We also need school and health services in public hands where those who are most vulnerable are more likely to be better served, more likely to avoid engaging in crime.

Prisons are being swamped with 'temporary beds' to cope with the overcrowding resulting with the tough-on-crime policies, however the

Correction authorities aren't building enough 'management beds' leading to a more violent workplace.

Concurrently the government is withdrawing funding and forcing DOJ to make further savings to find money to cope with overcrowding leading to proposals to reduce rostered hours of Prison Officers on duty.

Not enough management cells and less time Prison Officers spend on the floor is not a solution but a recipe for disaster.

Containment and supervision - assaults(c)	2007-8	2008-9	2009-10	2010-11	2011-12
Assault rate - assaults on prisoners by other prisoners	12.6	14.1	15.1	14.9	18.3
Assault rate - assaults on staff or other persons by prisoners	2.5	2.2	2.8	2.7	3.9

Shifts & Safety

Gayle Smith Award Winner Brendan Bishop, a Senior Prison Officer at the Dame Phyllis Frost Centre, knows first-hand about the health and safety implications of occupational violence and the dangers associated with long rotational shifts.



Brendan has been an active member for a number of years and been a HSR for the last 3 years actively representing members on Stress related issues such as Occupational Violence within the prison.

Brendan most recently has been involved on a roster committee and has been monitoring potential OH&S implications with any potential roster changes, particularly the possibility of rotational 12 Hour Shifts.

Brendan is always accessible to his members and provides valuable local assistance at all times.

Brendan has also become the local union president for this site and his active work both as a Health and Safety Representative and CPSU delegate has resulted in significant membership recruitment and recognition of the importance of both the Health and Safety and Industrial Relations roles at this site.

Gayle Smith



Gayle Smith worked in various government departments and agencies in a career that spanned 25 years. However, most of her working life was with WorkSafe Victoria and its predecessors, where she made important contributions to occupational health and safety and community safety.

For many years she was a workplace delegate and also filled the roles of secretary and treasurer on the local executive of CPSU at the Victorian WorkCover Authority.

Gayle was not only loyal and hardworking, she was courageous.

Gayle was widely respected for her willingness to work for a cause, to stand up for what she thought was right and just, even though there were risks involved in taking a stand, and for the time and energy she put into things without expectation of personal reward.

Gayle was deeply committed to health and safety and she understood the importance of being a workers' representative, whether as a workplace delegate or a health and safety representative.

After Gayle lost her fight with cancer, the union decided to honour Gayle's life, and to encourage other CPSU members to further their involvement in health and safety and worker representation, CPSU is proud to sponsor the award in her name.

Bullying Myths and Misconceptions

A new policy and legislative approach is overdue says Maurice Blackburn Partner Josh Bornstein. Public Perspective provides an extract from a paper he recently presented to further his call.

Bullying, whether in the school yard or workplace, attracts its fair share of public interest and controversy.

How to deal with workplace bullying also remains contentious. Although there is almost a consensus that workplace bullying is not currently well managed, opinions divide sharply thereafter on what policy or legal response should be made.

I intend to argue that in order to reduce the incidence of workplace bullying, a new policy and legislative approach is overdue.

This myth that bullying in the workplace is illegal is the one I am most frequently confronted with in my legal practise representing employees. Many employees assume that bullying, per se, is unlawful and actionable. They are both surprised and disappointed when I explain that the assumption is wrong.

Contrary to popular belief and despite the apparent scale of the phenomenon, there is no statutory scheme in Australia that proscribes bullying. The lack of a law that explicitly deals with workplace bullying is anomalous for reasons I will deal with later.

Bullying is alleged most commonly in personal injury cases, whether employees are seeking weekly payments, medical expenses or a common law claim brought under the provisions of the Accident Compensation Act 1985 (Vic).

In order to be paid lump sum compensation under s 98C of the Accident Compensation Act 1985 (Vic) for a psychiatric injury, it is necessary to demonstrate 30% whole person impairment – an extremely high threshold to meet.

This is compared to 5-10% whole person impairment for physical injuries.

In order to sue at common law for a psychiatric injury, a bullying victim must demonstrate that they have suffered 30% whole person impairment, or a 'serious injury' in accordance with the tests set out in the Accident Compensation Act 1985 (Vic).

It is an onerous obligation.

The victim will also need to establish negligence on the part of the employer, and the foreseeability of sustaining the type of injury they are suffering.

The bottom line is that in order to be able to sue to recover damages over workplace bullying, an employee must be severely psychiatrically damaged.

Workplace bullying may involve a breach of Occupational Health and Safety ("OHS") legislation. Again, bullying is not expressly dealt with in OHS legislation. Rather, an employer or individual employees may be prosecuted for breaching the requirement to maintain a safe workplace. The victim cannot pursue or institute a prosecution.

Brodie's law is not a bullying law but a stalking law. It has no application to the overwhelming majority of workplace bullying cases as it applies to extreme stalking behaviour.

In my view, it is a "dead letter", a law that may have been well intentioned but sits on the statute books unused.

It is also asserted that workplace bullying is impossible to define.

It is "just so subjective"; proclaim the critics and the white-anters.

These claims are, to use an old fashioned technical legal expression, nonsense.

Most OHS regulators use working definitions of bullying that are remarkably similar.

Safe Work Australia defined the term to mean 'repeated, unreasonable behaviour directed towards a worker or a group of workers that creates a risk to health and safety'.

Underlying the debate about whether workplace bullying can be defined and legislation regulating it introduced is a genuine problem.

Bullying can and does manifest itself in a remarkably diverse range of behaviours.

People may also disagree about whether certain behaviours constitute bullying.

There is no doubt that much more can and should be done to educate employers and employees about the nature of bullying. A shared understanding is in the interests of all of us. Indeed, it is in the interests of those wrongly accused of bullying for there to be a better understanding of what is and what is not workplace bullying.

One of the keys to sensible legislative and policy reform on workplace bullying is to remove it from its current legal and cultural designation as an occupational health and safety issue.

Confining workplace bullying to the realms of OHS hasn't worked and it won't work. For far too long, we have accepted a system which entrusts the regulation and policing of this issue to state based regulators.

Workplace regulators and OHS professionals are often overwhelmed by the volume of workplace bullying complaints. They quickly become jaded by workplace bullying. They suffer "compassion fatigue".

It is too easy to not investigate or reject

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Since 1919



a bullying complaint as based on, e.g. a personality conflict.

I advocate law reform that allows victims of workplace bullying to take a complaint to a tribunal or court well before the situation has escalated to the point of irreversible damage to an employee's health. We need a system that allows early intervention that maximises the chances of health and preserving the employment relationship.

I suggest that consideration be given to amending the Fair Work Act to allow this to occur because the Fair Work Act has national reach.

In recent response to the Federal Government Review into Workplace Bullying, the ACTU has suggested that it would support the criminalisation of workplace bullying.

Others have called for Brodie's law to become a national law.

I couldn't disagree more.

Criminal law should only intrude into the workplace in extreme situations. Most bullying cases are not criminal matters.

Those bullying cases which involve actual or threatened assault do not require new criminal laws. Existing provisions of the Crimes Act 1958 (Vic) will suffice.

If you wish to read Josh Bornstein's full paper then contact enquiry@cpsuvic.org

Handling Hazardous Museum Material

All three HSR's contributed to a massive cultural change in the way OH&S is viewed and addressed at Museum Victoria and their work won recognition when the team were joint winners of the Gayle Smith Award in 2011.

The team have actively worked with our CPSU industrial organisers and OH&S Officers, outside consultants and WorkSafe in seeking to change the poor systems for the handling of hazardous and carcinogenic substances that had been operating within the Museum's preparatory and conservation areas over many years.

They have been involved in a review of how hazardous substances are handled and controlled as part of the exhibits created and displayed at the museum.

These HSR's played an integral role around developing consultative processes on specific OH&S hazards such as Asbestos, Arsenic, Mercury and Lead.

This multi-layered approach on the Museums exhibits including identification, risk assessment and putting controls/solutions



Museum Vic's Steve Sparrey, Jim Cozens, Brendon Taylor and David Coxsedg with CPSU's Karen Batt & Carl Marsich

in place is setting precedence both nationally and internationally.

All the reps have contributed to the strengthening and effectiveness of Museum Victoria's Occupational Health and Safety committee and have actively promoted and improved member's involvement and understanding of occupational health and safety. So significant have the changes been, other Museums around Australia and some internationally are looking at establishing similar safe systems of work for their own exhibits.