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Holding judgement

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It began on June 15, 1995, when an unnamed Annandale detective jumped to his death from the seventh floor of a building, apparently through fear of the Wood royal commission. The detective's suicide was followed by those of Ray Jenkins, a dog trainer (July 10), and Inspector Robert Tait, the acting patrol commander at Narrabri (March 29, 1996). Nineteen days later a former Wollongong alderman, Brian Tobin, gassed himself.

On May 8 the same year, Peter Foretic gassed himself the day after giving evidence about pedophilia. On September 23, Detective Senior Constable Wayne Johnson shot himself and his estranged wife after being adversely named in the royal commission. On November 4, David Yeldham, a retired judge about to face the royal commission on questions of sexual impropriety, killed himself. A month later Danny Caines, a plumber and police confidant, committed suicide at Forster, on the North Coast.

Altogether, 12 people enmeshed in the Wood royal commission took their own lives. Scores of others were so profoundly affected by proceedings that their supporters and families believe it shortened their lives. A former detective, Greg Jensen, suffered a recurrence of the stomach cancer that ultimately ended his life, while another former detective, Ray McDougall, who faced the threat that commission investigators might expose his extramarital affair if he did not co-operate, succumbed to motor neurone disease.

There is no doubt that the Royal Commission into the NSW Police Service, headed by the Supreme Court judge James Wood, purged the force of a rollcall of rotters. A total of 284 police officers were adversely named, 46 briefs of evidence were sent to the Director of Public Prosecutions and by 2001 nine officers had pleaded guilty to corruption offences and three not guilty. Seven police officers received jail sentences, including the former Gosford drug squad chief Wayne Eade and a former chief of detectives, Graham "Chook" Fowler.

Several high-profile police ended their careers in disgrace, including Ray Donaldson, an assistant commissioner, whose contract was not renewed, and Bob Lysaught, the commissioner's chief of staff, whose contract was torn up. Charges against 14 officers were dismissed because of irregularities in search warrants and their execution.

That left the question of what to do with police who were on the nose but who could not be brought to account by normal means. The solution was the creation of section 181B of the Police Service Act, under which the police commissioner could dismiss an officer on the basis of what had come out of the royal commission. Section 181D allowed the police commissioner to serve an officer with a notice indicating that he "does not have confidence in the police officer's

suitability to continue as a police officer". The officer could show cause as to why he should be retained, and if dismissed could appeal to the Industrial Relations Tribunal.

In the wake of the two legislative changes, 380 officers were targeted for dismissal or internal investigation. By March 1998, 19 police officers had been dismissed under section 181B and three under 181D. Another had been dismissed under a separate provision of the act, 14 had resigned, four had been medically discharged and 15 had been given performance warning notices. Others were under consideration, and as the Police Integrity Commission - a legacy of the royal commission which became a permanent watchdog - has demonstrated, even officers who had been corrupt many years before were not necessarily in the clear.

The former independent MP John Hatton, who was instrumental in setting up the royal commission, said he thought the Police Integrity Commission was the royal commission's "greatest achievement". The Child Protection Enforcement Agency, which launched a purge of sex offenders, is another positive legacy of the royal commission. But 10 years on, was the exercise worth it?

To some there were considerable benefits. Some appalling malpractice - known as "process" or "noble cause" corruption - prompted Wood to wonder at one point about the quality of a lot of police evidence he had accepted over the years.

Despite this, many officers still believe the royal commission was too puritanical. They claim the investigators, not able to grapple with the really big issues, jumped on anything they could: "They had to have runs on the board," says Michael McGann, who as a policeman in 1984 participated in the so-called Kareela Cat Burglar case, in which police used mace on an unco-operative thief and sex offender. To some critics this treatment did no serious harm and only required a word of caution. But under the spotlight of the royal commission 12 years later, it ended the careers of high-flying police such as John Garvey, Brian Harding and Steve York.

A decade later, Harding works in corporate security but insists that the real sting was that the investigators had fabricated evidence. When that finally came out, he says, the group received a confidential settlement, but it did little to redress the feelings of outrage.

Another former policeman, Dr Michael Kennedy, says the commission was a political response to the police commissioner, Tony Lauer, bringing about the downfall of the then police minister, Ted Pickering.

The attorney-general, ministry and judiciary took little responsibility for the state of the force, Kennedy says, while the responsibility of the police rank-and-file grew to "the size of a Pacific driftnet". "I don't think the royal commission contributed anything to the reform process except to provide a template for double standards," he says.

"Chook Fowler put \$200 into his pocket from Louis Bayeh. Chook was a lazy, good-for-nothing drunk. But he was put into the same category as Ray Williams and HIH."

McGann says that against the string of petty corrupt activities uncovered, "you have to look at what the government did and did not do with gambling and vice, over the decades. There have been direct links to Parliament for 50 or 60 years. That is hypocrisy."

The critics' view is that the royal commission has left a demoralised police force, tarnished and rudderless, with limited operational effectiveness and the problem of corruption unsolved. Seven police officers have taken their lives since 2001, including two this year.

"It highlights the fact that the structure no longer takes in the needs of the NSW police force," says Mike Gallacher, the Opposition police spokesman, and a former internal affairs police officer.

Gallacher believes, as does the NSW Police Commissioner, Ken Moroney, that the tentacles of corruption no longer spread to embrace entire squads or larger units. But it does not prevent low-level incidents of corruption and there are continuing nests of corruption.

In its most recent report, the Police Integrity Commission said it had undertaken 21 major investigations in 2005-06. These dealt with extortion, theft, unauthorised disclosure of confidential government information and perverting the course of justice, police brutality and the handling of \$250,000 stolen from automatic teller machines. The then police integrity commissioner, Terry Griffin, said there had been 51 investigations in the 12 months, compared with 44 in 2004-05, and the 1141 written complaints represented a 15 per cent increase.

Moroney says all these reports are disappointing, but one of the significant statistics was the number of police who were reporting on other police. "You go back a decade and the number of informants who were police was 5 to 10 per cent," he says. "In the Ombudsman's last report, that figure was 49 per cent."

The mechanism for dealing with internal complaints has been expedited: "I have not been afraid to use a section 181D notice," Moroney says.

He believes there is a different mentality in the force. A video of the royal commission had been shown at a recent reunion dinner of the old criminal investigation branch. "It is part of our history. But the interesting thing is that when Chookie came onto the screen, everyone booed. That was a signal to the Fowlers and the Eades that those found to have acted corruptly would not be accepted."

However, Moroney accepts that corruption is not a thing of the past. "In the contemporary period, there are huge monies to be made from the illicit drug environment. You are talking in some cases of millions of dollars. It is the greatest menace in society today. And the greatest menace to officers is drug money. That is why rotation of officers out of specialist squads on a regular basis is important."

Taking over as commissioner five years ago, he had brought a low-key "Uncle Ken" influence, sorely needed, and had had to balance the principles of police accountability against the public demand for law and order, and the task has been awkward.

A senior counsel told the *Herald* this week that the focus on integrity, scrutiny of professional standards and attacks by defence lawyers meant that talented police prepared to do the dirty work were deterred. "In the old days the best and the brightest went into plain-clothes," he said. "But when the police perceive that when they have to go the extra yard [to get convictions], they are crucified - 'Why should I go to plain-clothes when I can just get some uniform job with a 12-hour shift, and a second job?'"

Clive Small, a former assistant commissioner who set up crime agencies and established the child protection unit, says that after so many detectives were disgraced in the royal commission, the police force sought to take the spotlight off detectives and put more of the onus of responsibility for crime control onto local area commands. Crime agencies had a continual battle to keep up to strength. Regionalising responsibility for crime control reflected a lack of understanding. "A lot of crime spreads through the metropolitan area, across the state and across the nation," he says.

Kennedy, now a university lecturer, says the "business model" approach is incompatible with good police work. "We cannot expect police to behave like they are in the private sector, where competence is measured in terms of productivity," he says.

Kennedy attended the recent CIB reunion dinner and sat at a table with former drug squad detectives who remained friends of Wayne Eade. He takes issue with Moroney's claim that people at the dinner made catcalls when Fowler came on screen. "No one supported Chook," he says. "But the animosity of the crowd was directed straight at Justice Wood and his commission."

Clive Small, who was also at the dinner, says: "I think it is really a matter of interpretation who they were booing. There were things the royal commission did not take care about. There was a lot of collateral damage. And the implementation [of its recommendations] has been pretty ordinary."

CRUSADER WHO MADE THE CALL

JOHN HATTON well remembers the audience on May 11, 1994, when he made his speech calling for a royal commission into the NSW Police Service. MPs were listening, of course, but it was a gallery above him, packed with the "top brass of the police force - the commissioner himself, the deputy commissioner, superintendents - they were an intimidating force on the Parliament".

"They thought they could stare down the Labor Party support for my motion," Hatton, now retired, says. "It was probably the best indicator of the way in which the police force thought they could control the agenda."

Hatton won the day, putting paid to a claim by then police commissioner, Tony Lauer, that "systemic corruption" was "a figment of the political imagination". Hearings started on November 24, 1994, and Justice James Wood delivered his final report on August 26, 1997.

Ten years later, Hatton believes he was vindicated. He says Wood was "the right man" to head the commission and the recruitment of interstate police was crucial, along with the decision to use phone taps and surveillance.

The 11 volumes of material Hatton gave the royal commission had been accumulated over 14 years, he says, from the time he had first spoken up. He had received information on illegal gambling, drug trafficking and police involvement with the mafia.

There had been earlier moves to address police corruption, including inquiries by the Independent Commission Against Corruption, but these had only scratched the surface. "I can remember on one occasion I reported a death threat which had to do with the McKay murder in Griffith and 48 hours later the bloke who had given the information was threatened by a shotgun at his door in Queensland," Hatton says.

The royal commission came into being because Hatton and other independent MPs held the balance of power in Parliament. The Labor Party may have had high public motives, but also saw a chance to attack the Fahey government. Labor stipulated that an inquiry into police protection of pedophiles, previously in the hands of the ICAC, become part of the royal commission.

The process of gathering information was helped greatly by Trevor Haken, a detective who became an informer and covert investigator as part of a deal to avoid being prosecuted himself.

Hatton says Haken's entry was "out of the blue". Though useful, in the long term it had had a detrimental effect on the fight against corruption. Living in fear and watching his back, Haken had provided "the greatest disincentive for someone coming forward to finger corruption in the system".

Malcolm Brown