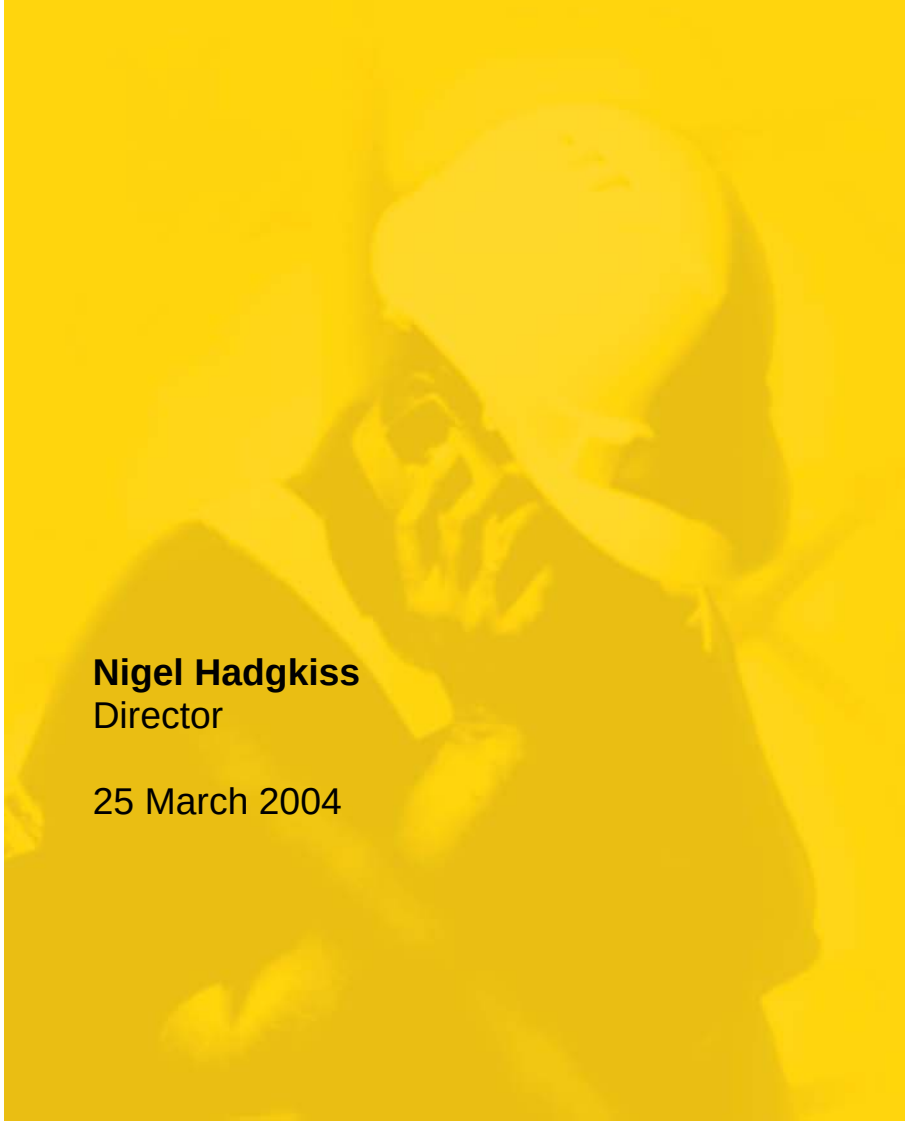
Australian Government
Department of Employment and Workplace Relations

INTERIM BUILDING INDUSTRY TASKFORCE

www.buildingtaskforce.gov.au 1800 00 33 38

UPHOLDING THE LAW - ONE YEAR ON:

FINDINGS OF THE INTERIM BUILDING INDUSTRY TASKFORCE



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Australian Government
Department of Employment and Workplace Relations

Interim Building Industry Taskforce
PO Box 1800, ST KILDA SOUTH, VIC 3182

22 March 2004

The Hon Kevin Andrews MP
Minister for Employment and Workplace Relations
Parliament House
CANBERRA ACT 2600

Dear Minister

Upholding the Law –
One Year On: Findings of the Interim Building Industry Taskforce

As you are aware, the Interim Building Industry Taskforce was set up on 1 October 2002. It was established as part of the Government's response to the findings of the First Report of the Royal Commission into the Building and Construction Industry. I was appointed its Director on 24 October 2002.

On 26 and 27 March 2003, the Final Report of the Royal Commission was tabled in the Parliament. As the anniversary of the tabling approaches, it is fitting that you be updated on the activities of the Taskforce, based on its 17 months' experience to date.

Accordingly, attached herewith is a report which provides an overview of the environment in which the Taskforce operates, highlighting in particular the continuation of unlawful and inappropriate behaviour in the industry. The document also addresses the overwhelming requirement for greater powers in order to fulfil the Government's objective of securing the rule of law.

Yours sincerely

Nigel C Hadgkiss
Director

Enc.

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1.0 EXECUTIVE SUMMARY

This report outlines the activities of the Interim Building Industry Taskforce (the Taskforce) since it was established in October 2002. It also provides an overview of the environment in which the Taskforce operates, highlighting in particular the continuation of unlawful and inappropriate behaviour in the building and construction industry (the industry). Behaviours that are unacceptable by general community standards are the norm in the industry. Too many Australians attempting to earn an honest living have become victims of the industry's blatant disregard for the law. The report also highlights the overwhelming need for the Taskforce to be given greater powers.

The Taskforce was established as part of the Government's response to the findings of the First Report of the Royal Commission into the Building and Construction Industry. It commenced operations on 1 October 2002. For the financial year 2003-2004, the Taskforce has a budget of $8.9m. The Taskforce currently has 47 staff.

The Taskforce's 1800 hotline receives complaints about alleged breaches of the *Workplace Relations Act 1996* (the Act) in the strictest confidence. More than two out of every three complaints are made against trade union officials.

Coercion, intimidation, violence and threatening behaviour are the most prevalent complaints received by the Taskforce. Many of the matters dealing with freedom of association, loss of work or otherwise, include an additional element of coercion to the extent that indicates these types of behaviours, unacceptable by general community standards, are the norm in the industry.

Such an overwhelming indictment of the industry's behaviour means the challenge before the Taskforce is not to simply restore the rule of law to the industry, it is to introduce the rule of law for the first time. Approaches for reform which may be appropriate for other industries would simply fail in the building and construction industry because of the poor state of workplace relations and the pervading culture of lawlessness. Most concerning to the Taskforce are reports received about threats and intimidation being used as a means of advancing industrial agendas. Such coercion is indicative of how countless industrial disputes are currently resolved in the industry.

The Taskforce continues to receive reports that union officials extort money and services in return for industrial peace on building sites. The Taskforce is particularly alarmed about elements of organised crime operating within the industry.

Given the existence of significant real safety risks in the industry, the Taskforce is most concerned when it receives information about Occupational Health and Safety (OH&S) being used as leverage in industrial matters. It has also been the experience of the Taskforce that the Royal Commission's conclusions about female participation and discrimination in the industry are well founded.

Taskforce investigators operate under the provisions of the Act. Those provisions are not sufficient to facilitate the operations of the Taskforce and give full effect to the intent of the Act. Enhanced powers for the Taskforce are a priority if it is to effectively fulfil its Charter and the Government's objective of restoring the rule of law to this industry. In the absence of enhanced powers, the challenge confronting the Taskforce in establishing the rule of law, under its current limited powers, is a huge task. It will therefore take significant effort and considerable time for the Government's reform agenda to produce the changed culture which the Australian community would expect and deserves.

Quote: *"It is like a school yard. You've got your bullies (unions), the wimps (head contractors) and the blokes who just want to have a kick of the footy (subcontractors)".*

These quotes have been sourced from discussions held between Taskforce staff and industry participants.

2.0 BACKGROUND

2.1 Brief history of the Taskforce

The Taskforce was established as part of the Government's response to the findings of the First Report of the Royal Commission into the Building and Construction Industry. Commissioner Cole recommended in his First Report:

"…the establishment of an interim body to monitor conduct, to investigate and if appropriate, facilitate proceedings to ensure adherence to industrial, criminal and civil laws pending the delivery and consideration of my final report".

That recommendation came from Commissioner Cole's conclusion that there was a need for a body to monitor the industry during the winding down and completion of the Royal Commission, and prior to the establishment of the national agency he envisaged. That recommendation led to the Government establishing the Taskforce administratively as a distinct unit within the Department of Employment and Workplace Relations (DEWR).

The Taskforce commenced operations on 1 October 2002 and was initially scheduled to cease on 30 June 2003.

2.2 Taskforce Charter

The then Minister for Employment and Workplace Relations, the Hon Tony Abbott MP, stated on 20 August 2002 in the Parliament that a taskforce would be created: *"to investigate and police breaches of the Act and other laws in the construction industry".*

Minister Abbott also said, in a press release issued on 1 October 2002, that *"[T]he Taskforce will investigate anyone, union official, contractor or subcontractor, reasonably suspected of operating in this industry in breach of the law and will refer suitable cases for prosecution".*

The Taskforce provides advisory, compliance and education services to the industry in relation to relevant laws passed by the Commonwealth Parliament. In this role, the Taskforce has prime responsibility for matters relating to the application of the provisions of the Act on freedom of association, coercion in agreement making, right of entry and strike pay. It also provides a whistle blowing facility through its 1800 hotline, with the provision of confidentiality and anonymity if requested. The Taskforce performs an educative role and is also a source of relevant information, advice and assistance to industry participants via the Taskforce's 1800 hotline and website (www.buildingtaskforce.gov.au).

2.3 Activities of the Taskforce

The Taskforce has achieved a great deal to secure the Government's objective of securing lawful conduct throughout the industry. Each day it receives complaints and queries either through the hotline or direct to individual Taskforce members. Taskforce personnel meet and discuss issues and enquiries with builders, subcontractors, employees, unions, industry associations and suppliers. Taskforce investigators also visit sites, serve notices for the production of documents and liaise with various agencies. A more detailed overview of the activities of the Taskforce is provided in Chapter 6.

2.4 Operational performance of the Taskforce

In its 17 months of operation, the Taskforce has placed 13 matters before the courts. Eight of these matters have yet to be dealt with. These court actions have mainly related to coercion and intimidation in the making of agreements and breaches of freedom of association provisions of the Act. Of the 13 matters, five actions have been against employers, six against unions and two against both a union and an employer. A further five briefs of evidence are also being prepared for possible litigation. These figures clearly refute claims the work of the Taskforce is merely a "union-bashing" exercise.

Officers of the Taskforce have received 1,489 calls via the 1800 hotline and have made 1,865 different site visits, covering all States and Territories. In addition, 405 notices to produce records have been served. As at 11 March 2004, there were 221 active investigations, 23 investigations on hold or a watching brief being maintained, and 18 briefs of evidence had been referred to state police or other external agencies.

Five matters have been successfully concluded before the courts following cases investigated and prepared by the Taskforce. It is of note that all matters initiated by the Taskforce and concluded before the courts have been successful – a 100 per cent success rate.

In the first matter, a senior union official was convicted under the *Criminal Code Act 1995* on a charge of improperly influencing and coercing a site manager who was to be a witness before the Australian Industrial Relations Committee (AIRC). He was fined $500, the maximum monetary penalty available.

The second matter related to a national construction company being penalised $1,000 for providing strike pay to employees who were taking part in unlawful strike activity.

The third matter resulted in a penalty of $2,000 for illegal industrial action taken by a union to coerce a contractor to sign a union-endorsed enterprise bargaining agreement (EBA).

In more recent decisions, $2,000 penalties were handed down in two further matters. One case was in relation to unlawful strike action taken by a union to coerce a contractor to sign an EBA. In the other matter, it was found that a construction company

Quote: *"The union are a police force of their own but they make up the rules as they go along".*

and a site manager reversed a decision to award a tender because the subcontractor did not have a union-endorsed agreement with its employees. In this instance, the subcontractor advised that the tender was also withdrawn because he said he would report the matter to the Taskforce.

3.0 UNLAWFUL AND INAPPROPRIATE BEHAVIOUR

3.1 Nature of complaints received by the Taskforce

An analysis of the 1,463 calls received by the Taskforce for the period 1 October 2002 to 29 February 2004 reveals that 381 matters proceeded to active files, and in all but a few instances, active investigations. Employers (mainly subcontractors) accounted for 58% of the issues raised, non-industry callers 21%, employees 10%, employer associations 6%, legal community 3%, media 1% and trade union officials 1%.

Further analysis shows that of the 381 matters that proceeded to active files, more than two out of every three were complaints made against trade union officials. The remaining files were largely made up of complaints against head contractors (7%) and subcontractors (7%).

The five most common complaints received by the Taskforce involve:

- coercion, intimidation, violence and threatening behaviour (29%);
- employers' and union officials' disregard of the freedom of association laws, eg: the closed shop syndrome of 'no-ticket-no-start' (16%);
- loss of work resulting from the prevention of people going to work on building sites (10%);
- inappropriate payments (6%); and
- unlawful strikes (6%).

Many of the matters dealing with freedom of association, loss of work or otherwise, include an additional element of coercion that indicates these types of behaviours, unacceptable by general community standards, are the norm in the industry.

A geographical breakdown of investigations reveals that 105 have been conducted in Victoria, 102 in New South Wales, 78 in Queensland, 73 in Western Australia, 17 in Tasmania, five in South Australia and one in the Northern Territory.

The disproportionately large number of investigations in Tasmania requires explanation. The Royal Commission identified a need for cultural change in Tasmania but contended that its industrial record was influenced primarily by union officials from outside the State. The Taskforce's experience has proven this conclusion to be correct.

***Quote:** "You have no control over your own business".*

Case study: two weeks of industrial mayhem in Tasmania

In August 2003, eight union officials from Victoria and NSW flew to Tasmania to join four local officials to prompt head contractors and subcontractors to sign union-endorsed agreements. On occasions, some sites were visited up to four times a day by up to six union officials in a collective group. Union officials proceeded to completely shut down several sites for very minor OH&S issues, including alleged inadequate hot water and air conditioning in the lunchrooms. The Taskforce was present throughout this period and, as a result, investigated breaches of the Act relating to hindering work, coercion and breaches of right of entry provisions.

A breakdown of complaints also shows variations in the occurrence of different issues in each State. In Western Australia there is a higher incidence of complaints about freedom of association than in the rest of the country. In New South Wales, issues involving inappropriate payments and unprotected action are more common, whereas in Victoria the most frequent complaint is in relation to coercion in breach of the Act. Issues relating to strike pay are more widespread in Queensland and breaches of right of entry provisions are more prevalent in South Australia and Tasmania.

3.2 Introduction not restoration of the rule of law

Royal Commissioner Terrence Cole concluded that *"[S]ignificant cultural change is necessary if the rule of law is to be reintroduced to conduct …… within the industry".* The Taskforce's work to date has found a disproportionately high number of calls have been received about unlawful activities, indicating the industry is still dominated by a culture of lawlessness. Numerous industry participants, some with well over 30 years experience, have advised the Taskforce that they believe the industry has never been governed by the rule of law. In reality, the challenge confronting the Taskforce is not to simply restore the rule of law to the industry but rather introduce it for the first time.

3.3 Contempt for the law

The Royal Commission received evidence of practices and conduct which exhibited a widespread disregard of provisions of the Act, the application of inappropriate industrial pressure and demands on subcontractors, contractual obligations and terms of EBAs being ignored, departures from OH&S standards, threatening and intimidatory conduct, inappropriate payments and failure to adhere to the rule of industrial, civil and criminal laws.

The Royal Commission found that unions largely ignore orders of the AIRC, State equivalents and the Federal Court with impunity. On this point, Royal Commissioner Cole concluded that s.127 of the Act (orders to stop or prevent industrial action) "*proved to be ineffectual in preventing unlawful industrial action taking place in the building and construction industry".*

Quote: *"The unions are so aggressive. Light a match on site and the place would explode".*

The validity of that conclusion has been reinforced by the experience of the Taskforce. The Taskforce is aware of employers who have often resorted to court action in preference to using the AIRC because of their experience with the AIRC. In short, their experience is that AIRC orders are inadequate to prevent or stop unlawful industrial action in the building and construction industry.

Case study: Commission orders workers to return to work

On 8 October 2003, there was a mass union meeting held to discuss the *Building Construction Industry Improvement Bill 2003*. Approximately 10,000 construction workers were in attendance. Commissioner Harrison of the AIRC had already handed down a return-to-work order on the previous day, 7 October, expressly stating that all workers were to return to work upon the conclusion of the meeting. When this order was read out at the meeting, the assembly simply laughed and proceeded to pass a motion to take the remainder of the day off. The Taskforce is currently investigating 22 head contractors and substantially more subcontractors who appear to have unlawfully paid strike pay on that day.

The disregard for the law is not confined to the activities of rank and file participants in the industry. For instance, on 26 April 2003, this behaviour was publicly acknowledged by Mr John Sutton, the National Secretary of the CFMEU. In responding to the findings of the Royal Commission, he is quoted as saying:

"virtually everything we do breaches the Workplace Relations Act".

Furthermore, in response to the decision of the Magistrates Court handed down in November 2003 that resulted in the criminal conviction of a union organiser for improperly influencing and coercing a site manager who was to appear as a witness before the AIRC, the union leader's newsletter reported:

"…… the Magistrate ended up fining (union official) *the princely sum of $500. Yeah, FIVE-HUNDRED DOLLARS! Some of us lost that during the Spring Racing Carnival!"*

Ironically, on handing down his decision, the Magistrate offered the opinion that current penalties provided under existing legislation do not reflect the severity for this type of offence.

It is held by some that the most suitable remedy for addressing the culture of lawlessness is to implement a consultative approach by facilitating 'roundtable' discussions between employers, unions and government. The Taskforce's experience indicates that while it may be considered desirable to attempt to change the culture of the industry by using education and consultation, the reality is that this approach would have little effect. It is evident to the Taskforce that implementing a consultative approach to bring about cultural change would be of little use as it appears industry participants are often incapable of fair and reasonable discussions. Historically, one only has to consider the past failure of this approach to resolve countless demarcation issues between trade unions.

Quote: *"Anyone who takes on the unions comes off second best".*

Case studies: inter and intra-union disputes and violence

In a current matter before the Federal Court, the Taskforce had to intervene to resolve a demarcation issue between two unions. It is alleged that employees of a subcontracting company, already members of the AWU, voted for an AWU agreement rather than one proposed by the CFMEU. After this vote had taken place, the CFMEU then attempted to coerce the employer into an agreement with them by persuading a customer of the company to cancel a contract. In this matter, the Taskforce obtained an interlocutory injunction to restrain the CFMEU and its State President from coercive behaviour.

In November 2003, a newspaper article reported that a union official had been *"viciously bashed during a key (*union) *meeting"* held at a coastal resort. The brawl took place in the resort's restaurant and concluded with the union official spending nine hours in hospital for *'severe head injuries'.*

Case study: journalistic licence

The disregard for the truth and facts is exemplified in a CFMEU media release circulated in March 2004 about a Taskforce action against the union. Their media release stated, inter alia:

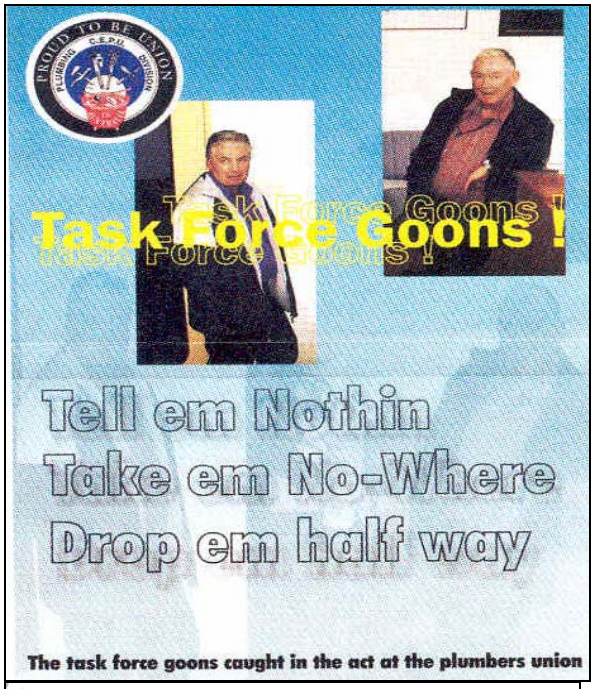
"48 Out of 49 Charges Dismissed …… all charges laid against CFMEU organiser *…… by the Howard Government Interim Building Task Force about an industrial dispute …… were dismissed today by Judge Hughes of the District Court in Sydney …… a further twenty-three charges against the CFMEU …… were also dismissed by Judge Hughes".*

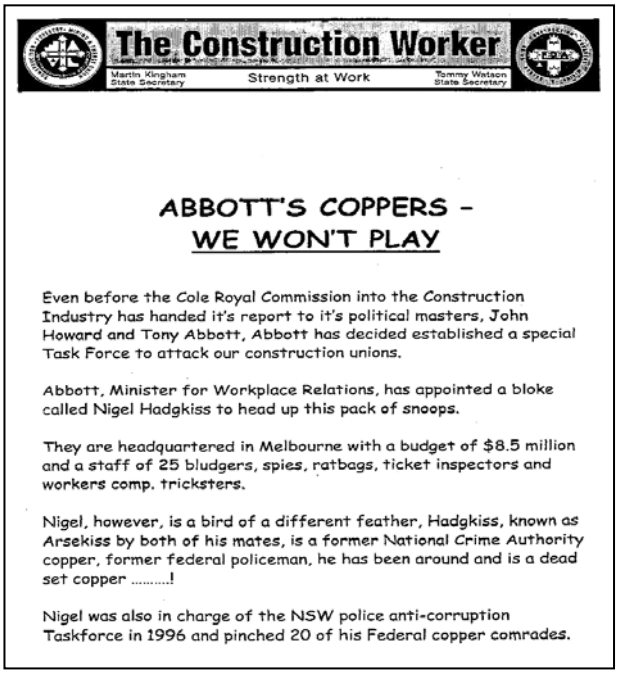
The truth of the matter is that the union had offered to admit to one count of coercion on the condition that a remaining five (not 48) breaches were not proceeded with. The Taskforce accepted the union's offer of its own volition upon receipt of advice from counsel to accept this offer because it would require substantial time and resources to continue. His Honour imposed a $2,000 penalty against the union. The head contractor lost $40,000 in costs as a result of the unlawful industrial action.

Regrettably, several members of the print and sound media ran this story without checking and giving the Taskforce an opportunity to set the record straight.

The overt hostility directed to Taskforce investigators, by some industry participants, epitomizes not only their contempt for the law, but also the existence of intimidation and thuggery in the industry. For instance, there have been situations in which the union movement have abused, taunted and ridiculed Taskforce investigators. Photographs of named investigators have appeared on building sites throughout the country. Such publications refer to Taskforce investigators as "goons, rats, bludgers, spies, ratbags, ticket inspectors and workers comp tricksters".

***Quote:** "IR in the building industry is the law of the jungle".*





The Construction Worker

Martin Kingham State Secretary — Strength at Work — Tommy Watson State Secretary

ABBOTT'S COPPERS – WE WON'T PLAY

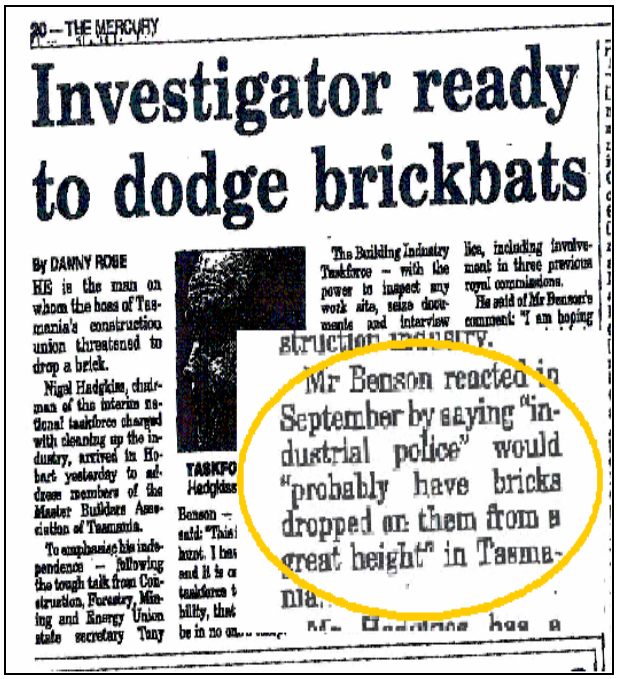
Even before the Cole Royal Commission into the Construction Industry has handed it's report to it's political masters, John Howard and Tony Abbott, Abbott has decided established a special Task Force to attack our construction unions.

Abbott, Minister for Workplace Relations, has appointed a bloke called Nigel Hadgkiss to head up this pack of snoops.

They are headquartered in Melbourne with a budget of $8.5 million and a staff of 25 bludgers, spies, ratbags, ticket inspectors and workers comp. tricksters.

Nigel, however, is a bird of a different feather, Hadgkiss, known as Arsekiss by both of his mates, is a former National Crime Authority copper, former federal policeman, he has been around and is a dead set copper .....!

Nigel was also in charge of the NSW police anti-corruption Taskforce in 1996 and pinched 20 of his Federal copper comrades.



20 — THE MERCURY

Investigator ready to dodge brickbats

By DANNY ROBE

HE is the man on whom the hoes of Tasmania's construction union threatened to drop a brick.

Nigel Hadgkiss, chairman of the interim national taskforce charged with cleaning up the industry, arrived in Hobart yesterday to address members of the Master Builders Association of Tasmania.

To emphasise his independence — following the tough talk from Construction, Forestry, Mining and Energy Union state secretary Tony Benson — said: "This i hunt. I ha and it is o taskforce t bility, that be in no o

The Building Industry Taskforce — with the power to inspect any work site, seize documents and interview lies, including involvement in three previous royal commissions.

He said of Mr Benson's comment: "I am hoping

struction industry.

Mr Benson reacted in September by saying "industrial police" would "probably have bricks dropped on them from a great height" in Tasmania.

Mr [illegible] has a

Case study: consequences of removing union propaganda

A site manager attempted to remove a derogatory union poster about the Taskforce. As a consequence, he was unceremoniously marched off the site by a union official. A subsequent union newsletter stated the site was then shutdown for 48 hours in protest and the site manager was transferred to another site for his troubles.

Quote: *"I'm always being held to ransom. It is pure thuggery".*

3.4 Organised crime and corruption in the industry

In a 2002 interview with the ABC TV program *Four Corners*, CFMEU National Secretary, John Sutton, expressed concerns about the presence of threats, intimidation and underworld figures operating within the industry, particularly his union. In a subsequent interview on the ABC's *7.30 Report*, Mr Sutton, when asked how the union expected to deal with organised crime in its ranks, advised he had taken an *"uncompromising stand on elements of organised crime"* and that he had attracted some enemies inside his union for doing so.

Like Mr Sutton, the Taskforce is concerned about elements of organised crime penetrating the industry. The Taskforce is aware of information which clearly indicates that the services of underworld figures, including notorious criminals and outlaw motorcycle gangs, are engaged by some industry participants to advance their industrial objectives.

3.5 Violence, thuggery and intimidation

Equally alarming to the Taskforce are reports received about threats and intimidation, including assaults on people and property, being used as a means of advancing industrial agendas by parties in the industry.

Case studies: industrial compromise or intimidation?

In March 2004, the Taskforce received a complaint from a glazier being threatened that, if he did not sign a union-endorsed EBA, all of the glass he had already installed on a building site would be smashed. At the time of writing, the glazier is still considering whether to proceed with his complaint.

In another recent report, a head contractor was assaulted by five officials from different unions for not succumbing to union demands. As a result of this assault, state police attended the scene. The head contractor subsequently surrendered to the union demands because of economic circumstances – had the dispute continued, the contractor would have been bankrupted.

These case studies are indicative of how countless industrial disputes are currently resolved in the industry. The Final Report of the Royal Commission concluded that the majority of contractors operating in the industry are small with very limited cash flow. As such, the ongoing viability of many businesses is determined by receiving prompt payment for the immediate job they are working on. Contractors are therefore extremely susceptible to industrial action which has an economic impact on their business. Unions consistently resort to unlawful industrial action to exploit this situation. The continuing absence of quick and effective enforcement mechanisms compounds this totally unsatisfactory state of affairs.

Quote: *"Currently written and unwritten laws exist. It is the unwritten ones that cause the most concern for me".*

3.6 Donations or outright extortion?

The Royal Commission concluded that some unions solicit donations from subcontractors which are not made freely and voluntarily. In a number of cases cited in the Royal Commission's Final Report, head contractors are requested to make 'donations' to particular causes, including the development of union training facilities or particular charities. In return for these 'donations' there will be no industrial trouble on a site. Companies are also required to purchase 'casual union tickets' so their non-unionised workers can work on some sites for a specified period of time. Shopfitting companies and shop owners carrying out their own fit-outs in large shopping centres are particularly targeted, with the number of tickets they are required to purchase often bearing no relationship to the number of employees undertaking the work.

The Taskforce continues to receive reports that union officials attempt to extort money and services in return for industrial peace.

Case studies: anyone for t-shirts?

In the latter part of 2003, a subcontractor was required by a union official to purchase t-shirts, bearing a union logo, at a cost of thousands of dollars per item. The subcontractor provided payment in return for access to the site where he could continue his work. This type of activity is common on sites throughout Australia. In one city, the clothing company awarded these clothing contracts is owned by the wife of a union organiser.

In a matter investigated by the Taskforce in February 2004, a subcontractor was charged $1,000 by a union official for each of the seven days he worked on a site. The official demanded this payment because the subcontractor did not have a union-endorsed EBA. The subcontractor was issued with receipts that indicated the payment was for t-shirts.

It is hard to fathom what any small subcontractor will now do with $7,000 worth of t-shirts bearing the CFMEU logo of a striking cobra and the words *"if provoked, we will strike".*

Other examples reported to the Taskforce relate to 'raffles' in order to obtain industrial peace. In such instances, builders are allegedly required to purchase books of raffle tickets costing up to $10,000 in order to keep their building sites operating.

In many cases, the Taskforce has also found donations are requested to be made in cash and if a receipt is provided, it often indicates the payments were for goods and services not received by the contractor. Other reports indicate subcontractors are still being required to purchase 'casual union tickets'.

Quote: *"The biggest issues that the Taskforce has to contend with is that everyone is too afraid to do anything".*

Case studies: the Bali Bombing Fund and other questionable charities

A State Secretary of a union demanded a glazier pay $100,000 to the father of another subcontractor who had died during the tragic Bali bombings. The union executive informed the glazier that he would not be granted access to the site until his demands had been met. Following a report to the Taskforce, the State Police were contacted. The Taskforce understands this matter was settled by the glazier negotiating a payment for $15,000 and the complaint with the Taskforce being withdrawn. Accordingly, both the Taskforce and the State Police were powerless to proceed.

In another matter, ongoing as this report is written, a union official in Melbourne continues to solicit $500 donations from subcontractors as a condition of entry to carry out work on CBD sites purportedly for a worthwhile charity. This shop steward appears to be particularly dedicated to this cause, as he often requests $500 from every subcontractor for each site they access. Currently, there are 38 separate commercial sites with 863 subcontractors operating in Melbourne. In addition, many subcontractors work on several sites at any given time.

The Taskforce believes donations received by unions are not only required from employers but also from union members. Since the tabling of the Final Report of the Royal Commission, head contractors, subcontractors and employees alike have been required to make weekly donations to union 'fighting funds' which have been established to help pay for the costs of defending court actions.

As many of the donations received by union officials are cash and not receipted, the Taskforce is at a loss as to where the money ends up. The Taskforce lacks the requisite powers to follow the money trail. Moreover, when these kinds of matters are referred to the Australian Taxation Office (ATO), the Taskforce is unable to receive any feedback on the dissemination of the information because it is not a statutory law enforcement agency recognised under the *Income Tax Assessment Act* or the *Taxation Administration Act*. Consequently there is no capacity for the ATO to share information with the Taskforce.

3.7 An industry like no other

The Royal Commission found that union officials routinely make inappropriate demands on contractors to engage particular workers and subcontractors. These union officials will then instruct the contractors to allocate particular duties to union-endorsed workers (including shop stewards) and subcontractors. In line with the normal industry practice, these shop stewards are also paid a salary equal to the highest paid worker on site.

The Royal Commission also found that the culture in the industry is such that contractors tend to accede to these demands, even where it involves them paying fulltime wages to persons who do no productive work on site other than engaging in union business, or where it involves them engaging employees against their wishes or interests, or for whom they have no need.

Quote: *"The industry is full of cancer".*

When comparisons are drawn with other industries, it can be seen that the industry is governed by its own unique set of rules. For example, the Taskforce has been made aware of instances where traffic controllers on construction sites are paid up to $150,000 pa. This obvious inconsistency in the duties of work and the remuneration received is not uncommon in the industry, as can be seen in the following case study.

Case study: not bad for a week's work

On Friday 1 August 2003, a labourer was tragically electrocuted whilst assisting in irrigation work on a rural farm. Next day, Saturday 2 August, was business as usual on CBD sites in that workers attended for work and received penalty rates. The following Monday, 4 August, was an industry Rostered Day Off (RDO). The funeral service was held the next day, Tuesday 5 August. Meanwhile, on the basis of this fatality, a large proportion of the CBD's building industry was called to go on strike on Tuesday the 5th and Wednesday, the 6th. This strike action led to a subcontractor complaining to the Taskforce that he was being coerced into paying strike pay.

The Taskforce is currently investigating 17 head contractors and approximately 400 subcontractors about illegal strike pay in relation to this unlawful industrial action. In doing so, the Taskforce has already served 30 Notices to Produce on head contractors and has served further notices on unions, an OH&S agency and a state police force. In the near future, the Taskforce will be serving many more notices on subcontractors. Compliance with these notices has already resulted in relevant documentation being surrendered to the Taskforce.

An examination of a head contractor's fortnightly time and wage records clearly illustrates that the building and construction industry is truly like no other:

- a shop steward was paid $2,821 for the first week and $3,156 for the second, purportedly having worked 76 and 83 hours, respectively. Other records show this employee has an arrangement with his employer whereby $1,000 per week is salary sacrificed;
- an OH&S officer was paid $2,911 for the first week and $3,156 for the second, purportedly having worked the same hours as the shop steward; and
- another OH&S officer was paid $1,867 for the first week and $2,352 for the second, also purportedly having worked the same hours as the shop steward. Interestingly, records for this particular worker show that he worked 20 hours at double time each week. However, unlike the other two employees, this man received no payment for those 20 hours claimed. The Taskforce has not been able to trace where this money went to due to its lack of powers to follow the money trail. The ATO were briefed as a consequence. As previously noted, because the Taskforce is not a statutory law enforcement agency recognised under the *Income Tax Assessment Act* and the *Taxation Administration Act*, no feedback can be provided.

Quote: *"Give the union an inch and they take a mile".*

The 'year-to-date' figures provided on the time and wage records indicate that these payments appear to be the normal weekly wages for the three individuals.

The hours set out above equate to about 15 hours each weekday and eight hours on a Saturday. Such hours and work practices are extremely questionable when one considers that the maximum hours a CBD site is ordinarily open for work are from 6.30am to 3.30pm on weekdays (including one unpaid hour for lunch) and from 6.30am to noon on a Saturday. This amounts to 45 hours per work.

One could be forgiven for suggesting that OH&S representatives working 76 and 83 hours per week would be an OH&S issue in itself.

The Taskforce has been informed by industry participants and organisations that it is normal practice for OH&S representatives and shop stewards, with no formal training or qualifications, to receive salaries well in excess of $100,000 pa.

3.8 Misuse of OH&S

The Final Report of the Royal Commission found that the importance of OH&S is trivialised by unions who use it as an industrial bargaining tool. Given the existence of significant real safety risks in the industry, the Taskforce is very concerned when it receives information about OH&S being used as leverage in industrial matters.

Case study: "why was my site closed"?

A prominent union organiser (who has been the subject of 23 Taskforce complaints) allegedly stopped a concrete pour citing safety concerns. This stoppage occurred on a Friday morning. While the exact nature of these safety concerns was not identified by the organiser, the site was shut down and the workers were sent home. The following Thursday, an inspector from the State OH&S agency carried out a routine inspection. During his examination of the site, no safety issues were identified that either warranted a partial or full shut down of the site. No notices were issued by the inspector. Following the inspection, a second union organiser stated that the site was shut down because, three weeks before this closure, a worker had received an electric shock from a lead on the handle of a jack hammer. Taskforce enquiries revealed that the worker who experienced the electric shock received first aid treatment on site and was advised by the safety officer to see a doctor but, given the minor nature of incident, declined and continued to work.

Industry participants and governments alike have implemented many initiatives to improve safety in the industry. One of these initiatives resulted in the development of the *Construction Industry Induction Training Agreement*. This agreement requires everyone in the industry working on commercial sites to undertake OH&S training with an accredited provider. Each worker is issued with a coloured card to verify that they have completed the training. The misuse of what should be such an important matter to extract industrial gains is illustrated in the following case study.

Quote: *"Building sites are still run by stand over tactics".*

Case study: pay now, OH&S accreditation later

In what can only be seen as a concerted effort to raise union funds and increase their stronghold on sites, a union has recently taken it upon itself to promote their own training course by expelling workers from sites who completed the same course given by other accredited training providers. The current waiting list for this union course is 18 months, but the union in question will allow access to site on payment of a $30 deposit. By itself, $30 is not a large amount of money. However, it soon adds up when one considers there are currently 730,000 people working in the industry.

3.9 Fear of retribution

The Final Report of the Royal Commission cited the possibility of retribution against persons who appeared before the Royal Commission as one of the reasons to establish an interim taskforce. This conclusion proved to be correct as the Taskforce has received information from subcontractors who have not been awarded any contracts since testifying before the Royal Commission. In every instance, it has been expressly indicated by the victim that they have been targeted as a consequence of their involvement with the Royal Commission, effectively being black-banned from the industry.

Unlike the Royal Commission, the Taskforce is unable to require persons to assist with many of its investigations. This severely restricts the ability of the Taskforce to conduct investigations to uncover any such attempts to take revenge upon subcontractors.

Likewise, there have been frequent instances where subcontractors will not use the services of the Taskforce because they fear their businesses will be black-banned.

Disturbingly, similar experiences have been reported across the country. In nearly all circumstances, the fear of losing future contracts overrides the need to support steps to enforce the law.

Case study: no choice but to buckle

A small company, with approximately ten employees, complained to the Taskforce in November 2002 about ongoing coercion to enter an EBA. It became apparent that the company had been continually victimised by a union since 1998 in a concerted effort to coerce them to enter into a union-endorsed EBA. On many occasions during the previous five years, the company had been awarded contracts only to find that, at a later date, their contracts were rescinded at the insistence of the union and awarded to a union-preferred contractor.

Quote: *"The Taskforce need to enforce the law of the land and get rid of the idiots who make the industry unfair for everyone".*

On the basis of this information, the Taskforce initiated enquiries, involving five sites, into these apparent breaches of the Act. During the investigation, a director of the company met with union organisers and stewards in July 2003 to arrive at a suitable conclusion to this ongoing dispute. At this meeting, a union organiser conveyed his intention to send the company bankrupt. The company director was also informed that union organisers were on high alert to the situation and pressure on sites would get worse unless the matter was resolved before the next union organisers' meeting. On receiving this threat, the company director was then instructed to collect a copy of the proposed EBA from the union's offices. On asking the same union organiser how long he had to consider the draft EBA, the company director was told:

"it's simple, we will call the dogs off when you sign".

Legal advice provided to the Taskforce was that there was sufficient evidence to take the matter to court, but recommended the matter be referred to the Australian Competition and Consumer Commission (ACCC) for consideration under the *Trade Practices Act 1974* because the penalties provided under the *Workplace Relations Act 1996* were inadequate.

The Taskforce conveyed this advice to the company directors who replied that they were unwilling to take any further action, preferring to maintain the status quo. In defending their stance, the company directors advised that their decision was based on the commercial reality and fear of retribution, culminating in potential loss of livelihood.

The Taskforce committed the resources of an investigator and a lawyer to work extensively on this matter for a period of nine months. The company directors estimated that they had lost, in real terms, approximately $1m as a result of this dispute. The company is worth approximately $2.2m.

4.0 OVERVIEW OF WORKPLACE RELATIONS

4.1 Effectiveness of Commonwealth and State entities in dealing with industry issues

As part of its Charter, the Taskforce has and continues to build relationships with other relevant Commonwealth agencies. These agencies are the ATO, ACCC, the Department of Immigration, Multicultural and Indigenous Affairs (DIMIA), the Australian Securities and Investments Commission (ASIC), the Australian Federal Police (AFP) and the Director of Public Prosecutions (DPP). It also regularly interacts with state police forces and agencies.

Quote: *"The Taskforce has put the cat amongst the pigeons but the unions have adapted and they know how to get around the Taskforce".*

The Taskforce has made referrals to appropriate agencies in cases where it has determined that complaints did not fall within the Taskforce's Charter. To date, 18 matters have been referred to bodies such as the ATO, ASIC, ACCC, DIMIA, state government departments and police forces. Complaints the Taskforce has received about 'phoenix' companies, where subcontractors have avoided payment obligations to contractors and employees, have been sent to ASIC and the ATO. The ATO has also been provided with matters pertaining to superannuation and group certificates. Cases involving secondary boycotts have been referred to ACCC, and briefs of evidence have been prepared and forwarded to state police. These briefs have involved activities of extortion and fraud.

However, the interim nature of the Taskforce has constrained the development of relationships with outside agencies, all of which have their own responsibilities and priorities. To date, there has been a general reluctance by these bodies to follow up on the matters referred to them by the Taskforce. The priorities of the Taskforce, which are industry specific, always diverge greatly from those of the organisations to which matters are disseminated. This divergence leads to those bodies effectively giving a low priority to Taskforce referrals.

Following a referral to an external agency, the Taskforce naturally seeks feedback on the status of the case. Invariably, agencies claim that privacy and/or secrecy provisions prohibit them from disclosing the outcome of their investigations. Ironically, the Taskforce is then left in the embarrassing situation of having to contact the victims and witnesses to establish what, if any, action has been taken by the department concerned.

Case studies: attitude of some state agencies

The Taskforce tried to obtain information from a state OH&S agency about their safety inspection of a building site. Despite numerous official promptings and the obtaining of counsel's advice, the agency considered the matter for over 12 months before permitting one of their inspectors to talk with a member of the Taskforce.

In another dialogue, a Taskforce investigator contacted a state OH&S agency to discuss the provisions of their *Construction Industry Induction Training Agreement*, only to be advised to contact the CFMEU.

It has been the experience of the Taskforce that some outside agencies are not only reluctant to assist the Taskforce, but have made a conscious decision to actively impede its operations. This is very disturbing and is clearly illustrated in the following experience of a Taskforce manager.

Quote: *"The construction industry is still in the dark ages".*

Case study: Yes Minister

On calling a state OH&S agency, a Taskforce manager was informed by a state official that he had been instructed that witness statements could only be provided to the Taskforce with the express permission of his state minister.

It has also been the experience of the Taskforce that state police forces are reluctant to intervene in industrial disputes. The Royal Commission found state police forces generally considered industrial matters to be outside their sphere of responsibility.

The Taskforce's experience supports this finding.

Case studies: police talk victims out of complaining

The Taskforce referred a matter involving extortion (with a full brief of evidence) to a state police force in January 2003. After the referral was made, the complainant informed the Taskforce that detectives had visited him and persuaded him not to pursue the matter. When Taskforce investigators subsequently interviewed the complainant, he indicated that he in fact wanted to proceed. The matter has once again been referred to the police force for further action.

In another Taskforce matter referred to a state police force, this time in relation to threats of violence, it took over 12 months for police to initiate their enquiries.

4.2 Women in the industry

The Royal Commission reported that women make up 12% of the construction industry workforce, and the average weekly earnings for women were the lowest across all industries. Like Commissioner Cole, the Taskforce has found that the work engaged in by women tends to be of an administrative, clerical and accounting nature, with women rarely holding senior or middle management positions. Very few women are employed as labourers or in trades, or in professional fields such as architecture or engineering. However, there are quite a number of 'hidden women' in the industry who assist male family members in their family business arrangement.

The reasons provided to the Royal Commission to explain the low number of women in the industry were:

- a lack of access to training, and low participation by women in industry-related courses such as engineering, architecture and building; and
- cultural factors which created barriers for women to enter or remain in the industry.

Quote: *"The Taskforce needs a bigger stick. At the moment you [the Taskforce] don't even have a stick."*.

The Royal Commission drew on a survey of Victorian building industry employers which identified the following cultural attitudes that influenced the industry:

- women were not suited for working on building sites, not only because they were physically less able, but also because of sexual harassment, pornography and swearing on site, and a lack of acceptance by male workers;
- women required separate facilities on site, and also created additional costs as changes had to be made to weights carried and ladder requirements; and
- few women who qualified actually commenced work in the industry, and if they did start work, they then often left after an initial employment period.

Women are currently employed in government regulatory bodies which cover the building and construction industry, for example OH&S authorities and industry bodies, including employer associations. The Taskforce employs four female investigators. The experience of the Taskforce and its members to date has confirmed the Royal Commission conclusions about female participation in the industry.

Case study: "a man would have been more reasonable"!

The Taskforce is currently conducting an investigation relating to a female project manager on a building site. She was involved in a dispute with two union officials who attempted to close down her site because work was being carried out on the Building Industry Picnic Day. The officials refused to show the project manager their permits and used abusive language. They told her that a man in her position would have acted more reasonably and if she had been a man then she would have been beaten up. The project manager was annoyed by these exchanges. However, it was not until one of the officials pointed at a crude and sexist car sticker, then made a derogatory comment about her personal appearance, that she became angry and complained to the Taskforce about the closure of her site.

5.0 NEED FOR GREATER POWERS

5.1 History of enforcement provisions

Historically, inspectors exercising powers under the Act or its predecessors, have not performed the functions now undertaken by Taskforce investigators. The inspectors' role has been basically confined in practice to ensure compliance with the Act, awards, orders and agreements. Until 1977, the Commonwealth Arbitration Inspectorate ('the Inspectorate') enforced the provisions of the *Conciliation and Arbitration Act 1904* under powers established by the Minister. Its successor was the Industrial Relations Bureau which had greater powers than the Inspectorate, including those of instituting proceedings for an offence under the Act or Regulations, and broader powers of entering premises. The Bureau was abolished in 1981, following opposition to its operations from the industrial relations community and the unions. The re-established Inspectorate had powers to ensure compliance with the Act and awards. This system described above has been in place since 1983.

Quote: *"I am not about to put my head on the chopping block".*
A reason provided for withdrawing a complaint.

Under the *Industrial Relations Act 1988* and the *Workplace Relations Act 1996*, inspectors were referred to as 'award officers'. The inspectors' role was to ensure compliance with awards and agreements. Until 1996, the relevant Act did not contain provisions equivalent to sections 170 MN and 170NC (relating to unprotected action and the coercion to make, vary or terminate a certified agreement) and associated penalty provisions providing for fines of up to $2,000 for an individual and up to $10,000 for a body corporate. Coercion and industrial action during the course of an agreement were matters that had to go before the Conciliation and Arbitration Commission, and could not be enforced in their own right. However, the introduction of those sections did not include additional powers that are necessary for their enforcement. In part, this explains the reason for some of the impediments encountered by the Taskforce in establishing the rule of law in the building and construction industry.

5.2 Role of inspectors

The enforcement operations of the Taskforce are essentially based upon powers of inspectors under s.86 of the Act and authorised officers under s.83BH of the Act. These provisions provide Taskforce investigators with the power to enter certain premises. The principal activities of the Taskforce are to ensure compliance with the provisions of the Act.

5.3 Paucity of powers – impediments to successful investigations and prosecutions

While there has been some success for the Taskforce in fulfilling its Charter, it is clear there have been limitations to the effectiveness of its work in achieving the Government's goal of changing industry culture and establishing the rule of law. The powers held by Taskforce investigators under the Act are inadequate for the Taskforce's compliance and enforcement functions.

The powers of Taskforce investigators contrast markedly with the wider powers given to Commonwealth investigative agencies. In order to thoroughly investigate the complaints it receives, the Taskforce needs the range of powers available to other Commonwealth bodies such as the ACCC, ASIC and the ATO. In short, this includes the powers to compel a person to:

- attend and answer questions relevant to an investigation;
- provide answers which may be given on oath or affirmation, orally or in writing;
- produce documents relevant to an investigation; and
- produce information relevant to an investigation.

As previously stated, the Taskforce has investigated over 380 matters in its 17 months of operation. Of this number, the Taskforce has had to finalise approximately 50% of these investigations due to the lack of powers to gather information. These investigations have had to be finalised because witnesses will not make a statement or victims have simply given up. Under the Act, the Taskforce does not have the power to compel persons to provide information regarding instances of intimidation and coercion.

Quote: *"Sites are run by unions not builders".*

The investigation of complaints by the Taskforce is greatly impeded by the limited powers provided by the Act. On 132 occasions between 1 October 2002 and 31 December 2003, the Taskforce required and requested further assistance from complainants but it was not forthcoming. This represents over one third of all matters investigated by the Taskforce.

In the absence of greater powers to gather evidence, the Taskforce has been unable to proceed with investigations. Taskforce investigators have advised that this outcome is generally the result of the complainant or persons located on-site choosing not to assist the Taskforce by proceeding. As this is the norm, current investigations are consequently significantly, invariably critically, impaired by the absence of coercive powers available to agencies like the ACCC, ASIC, ATO and similar. This almost wholly limits the ability of the Taskforce to introduce the rule of law to the industry.

Case study: having to resort to extreme legal remedies

A company registered an interest in tendering for a public project. Six months later, the company was advised by the State Government in question that they would not be invited to tender. The reasons provided by the Government for the withdrawal of the offer had not initially been mentioned as conditions the company would have to satisfy. Engaging in extrapolation, the company believed the Government's withdrawal was based upon previous disputes with a union. On this basis, agents of the company contacted the Taskforce to discuss their complaint and provided documents. In the process of investigating this complaint, the Taskforce served four Notices to Produce on the State Government in order to gain access to documents held by them about the decision to withdraw their offer to tender. The fourth notice was personally served by a Taskforce manager, but was not complied with and no reasonable excuse was provided for non-compliance. Consequently, the Taskforce has had to resort to action before the Federal Court in order to seek access to these documents.

The challenge before the Taskforce in establishing the rule of law, under its current powers, is a huge task. The problem faced by investigators was again highlighted in a recent investigation into an alleged demand placed upon a major builder to provide strike payments. A number of persons were identified for interview by the Taskforce, both former and current employees. The Taskforce has no powers to demand persons make themselves available for interview. Since the commencement of the investigation, representatives of the major builder have indicated the relevant persons will not be making themselves available.

Industry players are aware the Taskforce has little legal basis upon which to request the assistance of individuals. Hence, legal advice has been provided by head contractors, around the country, to a number of former employees, as well as current employees of their companies, to not discuss matters with the Taskforce.

In general terms, across all States, when persons have been willing to talk with the Taskforce, they have been, out of fear, unwilling to sign a formal written statement, despite the fact there has been a clear breach of the Act. However, they often indicate that they would attend hearings if compelled to do so. Obviously, this is an unacceptable state of affairs as prosecutors totally rely on signed affidavits or signed statements before considering whether to proceed with a court action.

***Quote:** "All decisions come down to money".*

If the Taskforce is to effectively tackle the unsatisfactory and illegal practices which clearly affect the industry, and therefore achieve more positive and lasting outcomes then it requires increased powers.

The need for enhanced powers is further illustrated by a number of difficulties that impede investigations:

- Taskforce investigators are not able to access particular information about individuals, eg: by tracing telephone numbers after intimidatory calls are made, or accessing other data sources to locate victims and witnesses; and
- problems encountered in entering sites and in obtaining documents, such as incomplete and contrived documents being provided.

Enhanced powers are a priority for the Taskforce or a permanent body to effectively fulfil its Charter and introduce the rule of law to this industry.

6.0 ACTIVITIES OF THE TASKFORCE

6.1 Taskforce Resources

For the financial year 2003-2004, the Taskforce has a budget of $8.9m.

The Taskforce currently has 47 members. That number consists of a small senior management structure, a team of investigators, a small team of in-house lawyers and a team of operations support staff. Investigative staff members have been drawn from various backgrounds such as DEWR, Office of Employment Advocate (OEA), ACCC, state and federal police forces and legal firms. Operations support staff also come from a range of organisations, including DEWR, the NSW Independent Commission Against Corruption (ICAC), the Cole Royal Commission, and the AFP.

The work of the Taskforce covers the whole of Australia. Offices are located in Melbourne, Sydney, Perth, Brisbane, Adelaide and Hobart.

6.2 Accountability of the Taskforce

The work undertaken by the Taskforce is accountable publicly and as part of the Australian Government is subject to formal accountability mechanisms. The Taskforce is responsible to the Secretary of DEWR and its activities are recorded in the DEWR Annual Report. Budget details are available through the Budget and associated papers. The operations of the Taskforce come under the scrutiny of the Senate Employment, Workplace Relations and Education Legislation Committee.

6.3 Information, education and whistleblowing functions of the Taskforce

The Taskforce provides information and assistance to representatives from all sectors of the industry by using appropriate occasions such as conferences, industry forums, site visits and more informal meetings. Industry stakeholders can also receive timely and accurate information via the Taskforce's 1800 hotline and website (www.buildingtaskforce.gov.au).

Quote: *"There is nothing the Taskforce can do to fix the industry. It's the way that is and nothing will change it.".*

The Taskforce's 1800 hotline also provides a whistleblowing function, as it can be used by industry participants to make anonymous complaints about alleged breaches of the Act, while being afforded an avenue for maximum protection of their identity.

6.4 Underpayment of employee entitlements

Instances of underpayment of employee entitlements discovered in the course of Taskforce investigations are referred to the Office of Workplace Services in DEWR or the relevant state agency. These bodies have the skills, expertise and experience to deal with employee entitlement matters promptly and effectively.

From the date of commencement to 29 February 2004, the Taskforce received 1,374 telephone calls. Of that number, 51 calls were queries about employee entitlements, including such matters as underpayment of wages, sick leave, redundancies, inclement weather and Picnic Day entitlements. This represents 3.8% of all calls received by the Taskforce. A breakdown of those 51 callers shows that 21 came from employers, 17 came from members of the community not directly working in the industry (for instance, lawyers), 11 came from employees, one from an employer association and one from a trade union.

The Royal Commission found that, in a period of six years, a union received over $10 million from builders and subcontractors in respect for wage claims initiated on behalf of its members. On the basis of the records provided to the Royal Commission, it appears that $4.2 million had been retained by the union and not paid out to its members or refunded to employers. The Final Report recommended that this matter should be referred to the Federal Industrial Registrar for further investigation. In May 2003, the Commonwealth Attorney-General referred this matter accordingly. At the time of writing, the Taskforce has yet to receive feedback from the Registrar as to the status of their enquiries.

6.5 Referrals from the Cole Royal Commission

In February 2003, 34 files were referred to the Taskforce by the Royal Commission. Each of these files contained information which had been submitted to the Royal Commission. The Commission had assessed these matters but decided not to further investigate them. The Taskforce reviewed each of these files and a decision was made to take no further action.

In March 2003, a further 16 files were referred to the Taskforce by the Royal Commission. Each of these files contained information and/or transcripts of Royal Commission hearings in relation to case studies which did not form part of the Final Report. The Taskforce reviewed each of these files and a decision was made to take no further action.

Quote: *"I am waiting for the bigger picture to be played out".*
A reason provided for withdrawing a complaint

In May 2003, the Commonwealth Attorney-General referred a total of 52 cases, arising from the Royal Commission, to the Taskforce. Of that number, one case has now been finalised by the Taskforce through Federal Court action. Four are active investigations. The remaining cases, by and large, involve matters which are statute barred, or where the victims were either unwilling to be involved or were unavailable, or the Taskforce simply did not possess the necessary powers to take the matter any further. In those instances, the Taskforce has had no choice but to discontinue its enquiries and close the file.

7.0 CONCLUSION

Breaches of the Act are considered by some in the building and construction industry to be minor offences, but such behaviour affects the quality of life for people who have to live with the behaviours and their consequences every day. Over time, as the 'small' offences have been ignored, the normal social controls for maintaining public civility on construction sites have been eroded. They also ease the way for criminality. It will therefore take significant effort, considerable time and adequate legislation.

It is clear deficiencies in existing powers represent real difficulties for the Taskforce in conducting its enforcement function. It is considered reform of existing legislation is essential to facilitate the enforcement operations of the Taskforce and hence the Act.

As the statistics in this report illustrate, it is disappointing that unions and head contractors have rarely availed themselves of the services of the Taskforce. The challenge set before the Taskforce is not to simply restore the rule of law to the industry but rather introduce it for the first time. The first milestone is for certain industry participants to at least give recognition that there is a problem with the kind of unlawful behaviour outlined in this report. A more significant milestone will be when enterprises, employers and site managers assume responsibility for their workplace arrangements.

In due course, perhaps shareholders may be interested in the questionable activities of certain construction companies, such as the unexplainable and exorbitant salaries paid to shop stewards, site traffic controllers, OH&S representatives and the apparent systemic payment of strike pay.

At the end of the day, not only do those who work in the industry bear the cost of the continuing lawlessness highlighted in this report, but so do all Australians through higher construction costs and consequent higher prices.