

## The ghost of Big Russ

Still haunting commuters  
Page 4



## Foreign fruit and veges

What are you eating?  
Page 11



## Binge drinking

Teenagers in trouble  
Page 7



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South Bank and the city ... plus the rest of the world, available on your home computer



Google Earth's view of the the Eiffel Tower ...



... and a bird's-eye-view of Ground Zero, New York. More pictures and story on pages 12 and 13.

# Police say they may 'revisit' the shredding case

Independent Monthly reporters

THE POLICE service has accepted it may be necessary to "revisit" the matter of public officials shredding material gathered by an inquiry into a youth detention centre in 1989, documents seen by *The Independent Monthly* have revealed.

In reply to a letter from Opposition Leader Lawrence Springborg, Crime and Misconduct Commission (CMC) Chair Bob Needham said the Police Commissioner "has accepted that legal advice previously provided in Queensland" which claimed evidence needed for a court action could be destroyed if no such action had actually commenced "... may have to be revisited".

For over a decade the Criminal Justice Commission and subsequently the CMC has held the strenuously contested view that s129 of the Criminal Code (Destruction of Evidence) did not apply if no legal action related to the evidence had actually commenced.

But, without any change in the law or the legal landscape, a Baptist pastor was charged and convicted under s129 in 2004, although legal proceedings related to the material destroyed did not commence for five years.

Subsequently the Attorney General appealed the matter saying the six-month

suspended sentence the man had been given was "manifestly inadequate".

According to the correspondence, Mr Springborg initially contacted both the Director of Public Prosecutions and the Police Commissioner about the discrepancy between what happened to the Baptist pastor and those who destroyed the youth detention centre documents.

The DPP advised it was police matter, and the police referred Mr Springborg to the CMC.

He raised the matter with the Crime and Misconduct Commission in a letter dated May 19 this year.

In his reply on July 5, Mr Needham said decisions about whether to prosecute a matter did not always turn on legal issues. He said the DPP's guidelines provided that "public interest factors" had to be taken into account, including the "staleness of the offence".

Mr Needham said "... in this case the Commission considers that further investigation of the matter would not be a justifiable use of resources".

Mr Needham said the decision was based on: the age of the matter; previous consideration of the matter by the DPP; other inquiries undertaken; and "the lack of utility in proceeding so long after the events in question".

*continued page 2*

# CMC decision criticised by former senior prosecutor

Gemma Stenner

FORMER Queensland Solicitor for Prosecutions David Field has described a letter from the Crime and Misconduct Commission to Opposition Leader Lawrence Springborg [see above] as another attempt to "whitewash" the past actions of those involved in the shredding of the Heiner inquiry documents.

Professor Field, now Adjunct Associate Professor of Law at Bond University, said he believed the letter failed to adequately address the issue raised by Mr Springborg.

Instead, he said, it summarised reasons previously used "erroneously" to support a decision not to prosecute.

Professor Field said the letter "largely avoided addressing the essential issue raised".

This was, he said, whether the Appeal Court's decision last year to dismiss a Baptist

pastor's appeal against his conviction meant those who destroyed the Heiner documents should also be liable to criminal prosecution.

In relation to the claim that the age of a matter was a major consideration in deciding whether or not to prosecute, Professor Field said "it would not have been so old had the CJC, as it then was, applied the correct test in the first place".

Professor Field also rejected the CMC's view that no further action was necessary because the DPP had already previously considered the matter and taken no action, and that there had been a number of other inquiries into the issue.

He said these outcomes had been based on an interpretation the Criminal Code that had subsequently been seen to have been "erroneous."

*continued page 2*