

**This is the unedited version of a column which appeared in *Australian Doctor* in 2004. Minor changes may have been made to the published piece.**

### **Media Bites: Conviction**

As the four women and eight men filed back into Court Two in the SA Supreme Court Building for the last time, they may not have realised just how closely they were being watched.

The court room was packed, as it had been for the last few days of the trial of Jean Eric Gassy, a deregistered Sydney psychiatrist charged with murdering his former colleague, Dr Margaret Tobin.

Dr Tobin, SA's director of mental health services at the time of her death in October 2002, was shot four times after returning from lunch to her office in central Adelaide. It was, the judge told the jury, an "execution style" killing.

On their final day in court, the jurors saw the faces which must have become familiar. There sat Dr Tobin's husband, Mr Don Scott, her mother Mrs Jean Tobin, and other family members and friends. And there was Gassy's frail elderly father, whose physical and emotional devastation was obvious.

The back row of the public gallery was filled with the square shouldered, dark-suited detectives who had put two years of work into the case. Nearby sat the usual court watchers - those who like to fill their retirement or otherwise empty days with some live theatre.

And, of course, there was the media throng.

But amongst the crowd awaiting the jury's verdict on September 23 were two men unfamiliar to those who had spent the previous 11 weeks of the trial together, listening to more than 160 witnesses.

These men, it transpired, were private investigators, hired by a decidedly nervous NSW Medical Board to keep a close eye on proceedings. It was the first time the Board had taken such a step.

If the jurors had returned a not guilty verdict, the Board was ready to swing into action with contingency plans to protect doctors who had been involved in Gassy's deregistration.

Gassy was struck off in 1997 after being diagnosed with a delusional disorder and refusing to comply with conditions placed on his registration. The prosecution argued that Gassy had harboured feelings of resentment and anger towards Dr Tobin for her part in his deregistration.

In 1994, when director of mental health for the Southern Sydney Area Health Service, Dr Tobin wrote to the NSW Medical Board requesting an evaluation of Gassy who had been on sick leave from St George Hospital.

In the end, as you no doubt saw on the news, the jurors eventually came back with a guilty verdict. Initially they were unable to reach unanimity, but retired again after receiving further directions from the judge.

The result came as a huge relief to several prominent doctors whose names and identifying details, including photographs and home addresses, had been compiled by Gassy.

Retired GP Dr Peter Arnold, and psychiatrists Dr Jonathan Phillips, Dr David Burke, Associate Professor Kay Wilhelm, Dr Beth Kotze and Dr John Woodforde were among them.

As Gassy represented himself during the trial, these doctors - as well as a former patient - found themselves in the uncomfortable position of being cross-examined by him.

Gassy was convinced he had HIV, despite several negative tests, and also included on his "persons of interest" list a Sydney specialist, Dr Stephen Adelstein, who had refused to prescribe him antiretroviral drugs in 1996.

Other GPs and specialists consulted by Gassy for "AIDS-related complaints" were also called to give evidence.

The case has had a profound impact on psychiatric and medical board circles.

“It’s raised the level of anxiety quite substantially among people who are dealing with medical boards and who are...more anxious about their personal safety,” says Mr Andrew Dix, the NSW Medical Board registrar.

It also has highlighted the difficulty of managing doctors with psychiatric conditions who may present well during consultations.

Mr Dix says the case also illustrates that the self regulatory system relies on people being “pretty fearless” in protecting the public.

“It’s the price of self regulation, the toll that it can take on people,” he says. “It’s so important that it is done, both for the public’s protection and also for the profession.”

It will be a tragedy, however, if others are deterred from making notifications to the Board.

As a relieved Mrs Tobin said after the verdict - in some terrible way, the jury’s finding vindicated her daughter’s decision to write that fateful letter on 13 July, 1994.