

*"All that is needed for evil to prosper is for people of good will to do nothing"*—Edmund Burke

# *The*



# *Whistle*

No. 88, October 2016

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Newsletter of Whistleblowers Australia (ISSN 2205-0299)

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Lynn Simpson and friend (see page 7)

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## Conference and annual general meeting

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### Conference

Saturday 19 November 2016  
8.15am for 9am

### Speakers

- Karen Burgess, Aspect Autism whistleblower 2016, tells her story.
- Robina Cosser asks us what advice you would give to somebody who has just discovered corruption.
- Jane Doe, government agency whistleblower, looks back on what it takes as a lone dissident to make retaliatory attacks backfire.
- Katrina McLean, NGO whistleblower, reveals 10 things she's learned about life after whistleblowing.
- others to be announced

Robina is willing to show you how to build your own website, so let Cynthia know if you are interested. You'll have to bring your computer.

### AGM

Sunday 20 November 2016  
8.15am for 9am

**Venue** Uniting Church Ministry Convention Centre on Masons Drive, North Parramatta, Sydney  
**Nominations and proxies** See page 16.

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**Non-members** \$65 per day, includes lunch & morning/afternoon tea. Optional \$35 extra for dinner onsite 6pm Saturday night

**Members, concessional cardholders and students** \$45 per day

This charge may be waived for members, concessional cardholders and students from interstate, on prior application to WBA secretary Jeannie Berger (jayjellybean@aol.com).

Optional dinner @ \$30 a head, onsite 6pm Saturday night.

**Bookings** Notify full details to treasurer Feliks Perera by phone on (07) 5448 8218 or at feliksfrommarcoola@gmail.com or president Cynthia Kardell (see phone/email below).

### Payment

Mail cheque made payable to Whistleblowers Australia Inc. to the treasurer, Feliks Perera, at 1/5 Wayne Ave, Marcoola Qld 4564, **or**

pay Whistleblowers Australia Inc by deposit to NAB Coolumb Beach BSB 084 620 Account Number 69841 4626 **or**

pay by credit card using PayPal to account name wba@whistleblowers.org.au.

### Low-cost quality accommodation is available at the venue

Book directly with and pay the venue. Call 1300 138 125 or email service@unitingvenues.org

**Enquiries:** ring national president Cynthia Kardell on (02) 9484 6895  
or email ckardell@iprimus.com.au

### The man who blew the whistle on Ned Kelly

Kim Sawyer

HISTORY, particularly Australian history, tends to invert the truth. Whistle-blowers know that better than most. Villains become heroes because of who they were not; and heroes become the unknowns they should not be. Such is the case of Ned Kelly and Thomas Curnow. Curnow is one of those great Australians we should all know of. He blew the whistle on Ned Kelly. While Kelly is known to everyone, Curnow is unknown to nearly everyone. It is one of our great inversions.

Thomas Curnow had been the schoolteacher in Glenrowan for four years. On Sunday June 27, 1880, he and his family were taken prisoner by the Kelly gang in the Glenrowan Inn. An account by Linton Briggs summarises how Curnow acted.

Curnow becomes aware of the Kellys' plan to derail the Police Special Train, and anxious to intervene, he convinces Ned that he is a sympathiser and to allow him to return his unwell family to their home in the old township. Ned is swayed and permits this. Curnow—leaving his wife and child at home—then takes his sister's red scarf and a candle to the railway line to flag down the train. He succeeds in getting the pilot engine to halt, thereby foiling the gang's plan to wreck the Police Special Train. Instead, the police mount their own assault on Ann Jones' Inn, which results in the fall of the Kelly gang.

In Curnow's own account to the Royal Commission that followed, his motivation was clear. Curnow had learnt three things while imprisoned by the Kellys. First, that the Police Special Train not only had police on board but also civilians; secondly that the Kellys intended to shoot those who escaped death from the wrecked train including civilians; and thirdly that the Kellys had shot police at or near Beechworth the previous night. Curnow stated that

his sole motive was to save life, to uphold justice and to secure as far as possible the safety of his family. Curnow acted in the public interest but at great cost to himself.

Curnow knew some of the risks ex ante; in testimony to the Royal Commission he stated that Ned Kelly declared to those imprisoned at the Glenrowan Inn that he would have the life of anyone who aided the police or showed friendly feeling for them, and he could and would find them out. Kelly's last words to Curnow were "See you go to bed and don't dream too loud, or you will be shot." Unsurprisingly, after stopping the train, Curnow returned home to find his wife greatly troubled; they blew the lights out and hid the red scarf, the wet clothes and the candle. Ned Kelly was not someone to cross.



Thomas Curnow

But Curnow did not understand all the risks of his whistleblowing. While he received a reward variously estimated as £550 to £800 (of the £8,000 on offer), and the Silver Medal of the Victorian Humane Society, Curnow became a pariah to many, and an unknown to later generations. After the siege at Glenrowan, Curnow was granted a week's leave of absence to pack up and leave Glenrowan, for North-East Victoria was Kelly country. Curnow taught for some time under an

assumed name in Gippsland but later settled in Ballarat where, according to one report at the time, he was given a resounding welcome by a crowd of four or five hundred at the Mechanics' Institute. It was a reception he should have received more often.

Curnow was not discriminated against in his employment or by the government; but he has been discriminated against in our collective memory. Ned Kelly was larger than life; Curnow was not. Kelly wore a suit of armour; Curnow did not. Kelly declared support for a Republic of North-Eastern Victoria; Curnow did not. Instead, through his actions, he declared support for the rights of others. Kelly has been memorialised and Curnow forgotten. Kelly would say "Such is life," but only if it is allowed to be so.



Ned Kelly

I am not the first to champion the cause of Thomas Curnow, but I am one of the first to champion him as a whistleblower. Curnow was a whistleblower who was discriminated against not so much in his time, but after his time. Whistleblowing is more than revealing the malpractices of this age; whistleblowing is also about changing a culture that has falsely commemorated the past. Geoffrey Robertson has used the phrase "doing a Tom Curnow" to remember Curnow's selflessness. It is a phrase that should be part of Australian idiom because one day any one of us could be on the train to Glenrowan.

Kim Sawyer is a long-time whistleblower advocate and an honorary fellow at the University of Melbourne.



## Ten tips for spilling the beans

Brian Martin

You discover some corruption at work and want to do something about it. So you report it to your boss. Whoops. Your boss was in on it, or tolerated it. You've become a whistleblower, and the reprisals start coming: the cold shoulder, rumours that you're mentally ill, unwelcome assignments, petty harassment. You might even lose your job just because you tried to do the right thing. Whistleblowers are treated like traitors, and suffer.

So what about leaking? You just send some documents to the media and no one knows you did it. Think again. It's not so easy. To expose the corruption while avoiding the dire fate of most whistleblowers, follow the rules.

### #10. Keep your mouth shut!

As a would-be leaker, you might worry your boss will discover your identity by hacking into your computer or tapping your phone. Actually, the biggest risk is your own mouth. It's hard to keep a secret, and being a leaker is a *really* big secret.



Chelsea Manning found out the hard way. Manning, back when she was Bradley, had pulled off one of the biggest leaks in history, including the collateral murder video, Afghan and Iraqi war logs, and US diplomatic cables. She might never have been discovered, but couldn't resist telling a complete stranger, hacker Adrian Lamo, who told the feds. Manning copped 35 years in prison, all for being a blabbermouth.

So don't tell anyone—not on email, not on Facebook, not on the phone, not on secure chat. And be wary of that stranger at the bar buying you drinks.

### #9. Serve the public interest.

You're exposing corruption, and that's the most important thing. Your mo-

tives shouldn't really matter, should they? Actually they do, indeed quite a lot.

Maybe you hate the boss, so you'll get even. Or you hate the company for treating the workers like shit. You can leak for revenge, but it's far better to leak for a noble cause. Why? Because other workers and members of the public will appreciate your efforts.



Go ahead and tie up the boss,  
but not if you're a leaker

Of course not everyone will appreciate it—that's why you need to leak, to avoid those who want things covered up. And there's plenty that's covered up: paedophilia in the churches, police abuse of suspects, financial fraud, special favours for friends, dumping hazardous substances, cheating people out of their homes, you name it. Exposing these crimes and abuses is a public service.

Think of famous whistleblowers. Think of Daniel Ellsberg, who leaked the Pentagon papers showing the sordid reality of US policy during the Vietnam war. Think of Deep Throat (Mark Felt), who revealed the crimes of Richard Nixon. Think of Coleen Rowley, who spoke out about shortcomings in the FBI handling of information prior to the 9/11 attacks.

If your leaks are seen by lots of people as worthwhile, you can think better of yourself and, if you're ever found out, you'll have more supporters.

### #8. Collect plenty of material.

Many whistleblowers think that when they have evidence that's good enough, they can speak out. But enough evidence isn't good enough—you need lots more! Decide how much material you think will provide a convincing case, and then multiply by 10. Yes, you need more than you can imagine.

Suppose you hear the boss saying your team will fiddle the books. 20 others heard the same thing. When a journalist calls to ask about it, guess what? The boss and all 20 deny it happened. Or the boss says it was just a joke.



Perpetrators will lie, stonewall, and provide excuse after excuse. You need lots of documents—reports, emails, recordings—to show what they are doing despite their best efforts to avoid accountability.

### #7. Take your time and choose your time.

The corruption is happening now and you want to stop it, so you urgently leak information about it. Big mistake.



The reality is that most corruption, abuses, and dangers to the public are ongoing. Maybe you just found out about them, but that doesn't mean you must act immediately.

You need to take time to make sure about what's happening and to collect plenty of material. And you need to wait until it's the best time to have an impact.

One of the great advantages of leaking is that you can stay in the job and continue to leak, over a period of weeks, months, or years. So take your time.

## Waiting..



### #6. Don't leave traces.

You're planning to leak, so you prepare carefully, thinking through all the steps you need to take. So far, so good, but it's not enough.

What you really need to do is think like your boss or a PI who's trying to track down the leaker. What will they do? Figure this out and prepare for it.

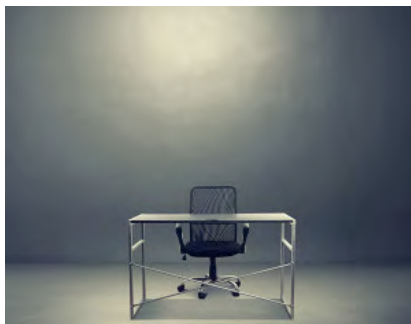
Simple mistakes are the downfall for leakers, for example leaving pages in the photocopier or private emails open on your screen. The basic idea is to leave no evidence of your activity on any device that your employer or investigators can easily inspect. How careful you need to be depends on how seriously they want to find the leaker.

You send a Word document to a journalist. Did you check "properties" to make sure it doesn't contain your name or location?

You're wise enough to avoid using your office computer, because the IT staff can check through it, and through all your messages. But you used your home computer. What happens if your account is hacked or—shock, horror—your computer is stolen? If you really need to be careful, you buy a separate

device like a tablet (using cash, not a credit card) not connected to the Internet, and do all your writing on it. Then you go to a cybercafé or public library far from your home, sign up with a new Yahoo account under a pseudonym, upload the file from your device, send it to recipients, close your new email account, and wipe, destroy, and discard your separate device. If you go to a cybercafé, pay in cash—and watch out for those security cameras.

It sounds like a lot of trouble, and it is. But it's a lot less trouble than getting caught.



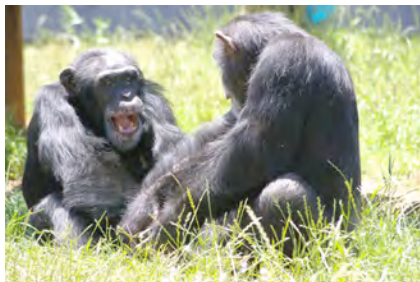
Don't leave traces.

### #5. Stick with what you're good at.

You might imagine that the most sophisticated methods of protection are the best. If you're experienced with encryption and anonymous remailers, then go ahead and use them. Otherwise, this is not the time for trying something new. It's better to use methods you feel comfortable with.

You can make telephone calls from a public phone (do they still exist?). Remember that investigators might be able to obtain the numbers of phones used to call a journalist. Julian Assange recently advised journalists to consider sending letters through the post.

Then there's the old-fashioned method of meeting face-to-face, with some noise in the background. It's still one of the best.



Use a disguise only if necessary.

### #4. Choose your recipients carefully.

Get the message out, right? Go right to the top current affairs program—surely they will be interested.

Actually, it's not that easy. You might think your issue is breaking news, but whistleblowers often discover that journalists and editors have other priorities.

Journalists are promising recipients: carefully consider their track record and impact. There are other possibilities too: an action group (an environmental group, a consumer group: whatever's relevant to your leak), WikiLeaks or another online site, or directly to the public through your own website (set up surreptitiously).



Probably the wrong leak recipient

Edward Snowden is the world's most famous leaker, and for good reason. He knew what he was doing, and he did it extremely well. Snowden decided to leak to a journalist who would tell his story effectively. He didn't go to US newspapers like the *New York Times* or the *Washington Post* because he knew they were too timid in challenging the government. So he chose the British *Guardian*, and specifically the writer Glenn Greenwald, who had a track record exposing US abuses of power.

Snowden contacted Greenwald anonymously. Greenwald was interested but too busy to make the connection, even with the private tutorial Snowden designed. So Snowden approached Laura Poitras, a dissident in her own right and a friend of Greenwald's. Finally they were connected, and met in Hong Kong.

This whole process took quite a few months. Snowden made the right



choice and was both patient and persistent.

### #3. Be prepared for a witch-hunt.

Leak your hot material and wait for it to have an impact. It sounds like your job is over, but actually the toughest part is about to begin.

If your leak generates some attention through the mass or social media, expect your employers to mount a search for the leaker. They're after *you*! They might search emails, devices, people's backgrounds, trips, and much else. They will check everyone with access to documents or to confidential information. They will suspect anyone with a grudge.



Angry mob looking for a leaker

If you've been careful until now, you're pretty safe. Do you know why there are so few famous leakers? It's because most of them are never caught. By comparison, there are hundreds of famous whistleblowers. Think of nuclear industry worker Karen Silkwood (played by Meryl Streep in, you guessed it, *Silkwood*) and tobacco company executive Jeffrey Wigand (played by Russell Crowe in *The Insider*). Other whistleblowers, not so famous (no Hollywood movies), have written books about their experiences, for example pharmaceutical company executive Peter Rost (*The Whistleblower: Confessions of a Healthcare Hitman*) and FBI translator Sibel Edmonds (*Classified Woman*).

Yes, whistleblowers are done over time and time again. They foolishly reported their concerns to bosses and paid the price. They trusted the system to provide justice and the system crushed them.

Witch-hunts for leakers are designed to send a message to workers not to say anything. By following the rules, you can be one of the ones who isn't caught.

Politicians and senior bureaucrats leak all the time for political and personal gain. Don't be fooled. Leaking by those at the top is standard practice and rarely penalised. Different rules apply for those lower on the totem pole.



### #2. Behave naturally.

Your leak has had an impact. There's going to be an investigation into the corruption, and your boss is blowing a fuse. Time to celebrate! (Remember, keep it private.)

But with all the excitement, you now face a peculiar challenge: appearing natural. You're called in for an interview about the leak. Or your workmates casually bring it up in conversation. You need to behave just like you always do. However, being normal (normal for you that is: maybe you crack jokes about everything) is not always easy. You have a big secret, but have to pretend you know nothing about it.

Rest easy. Most people are pretty good at lying, and most people are not very good at detecting lies. So lie away, and don't feel bad. It's for a good cause.



Lie with confidence: no one will nose.

Remember also that some co-workers themselves might be afraid. They might not be leakers, but they might have things to hide.

If you are really good, you'll be seen as a trusted employee. You might even be put in charge of finding the leaker!

### #1. If caught, go public.

Horrors—they're onto you. You made a mistake: you told someone, or your recipient did. Or you realise that they're going to find you before long. What to do? Your immediate instinct is to bunker down, being as private and inconspicuous as possible.

Actually, though, if your leak is for a good cause (remember rule #9), your best option is to go public. Yes, it's counter-intuitive; most whistleblowers are reluctant to go to the media. But you'll obtain far more support and sympathy from members of the public than from your employer.



Snowden leaked his material, but knew he would be tracked down. So he revealed his identity. Actually, Greenwald had to convince him to hold off for a few days.

As soon as your identity is known, the focus will be on you, not on what you're speaking out about. That's one reason leaking is more effective: the focus is on the issue, not the whistleblower.

If you really planned ahead, you already have a new job with a sympathetic employer, and you don't really care if you're identified. But still, it might be more fun to remain anonymous. Keep them guessing. You never know when you might want to leak again. It might even be addictive.

Brian Martin is editor of *The Whistle*.



### Australian vet makes the cover of the latest issue of Maritime CEO

Splash 24/7, 24 August 2016

TODAY SEES the launch of the latest issue of *Maritime CEO* magazine, the title aimed at shipping's top echelon.

Featured on the cover for the first time in the magazine's history is someone who is not a shipowner. Dr Lynn Simpson is the Australian vet who has done more than anyone in history to shine a light on what happens in the livestock trades—she has been delivering a brutal reality of what happens when animals move from Australia to other parts of the world, something that has shocked many. In our lead article she discusses how she entered this niche sector, the things she has seen, and how to improve the sector.

"I loved shipping for its sheer scale and adventure," Simpson tells *Maritime CEO*. "Tragically I was quickly seeing the live export trade's similarities to the historical human slave trade. In the 19th century, empires were built on the backs of slaves, kidnapped and sold from their home countries. High mortality rates on voyages, and poor treatment in destination countries once on sold. Replace human slaves with live animals in your mind's eye and, well, it's the same scenario."

On the future of this trade, Simpson predicts: "I personally think that public pressure for increased welfare will mean live export of mass numbers of livestock from first world countries will meet an end in the not too distant future. The meat trade will increase and countries will get their protein requirements. Some trade may move to countries that work at more challenging standards and the delivered product may be questionable."

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### "Pokie-Leaks" campaign to expose pokies industry's secrets

Australian Associated Press,  
*The Mercury* (Hobart)  
27 September 2016

A CAMPAIGN dubbed "Pokie-Leaks" has been launched to encourage people to shine a light on the "dirty secrets" of the pokies industry.

Australia has almost 200,000 pokie machines—one machine for every 120 people—which generate just under \$12 billion a year.

The campaign by three federal politicians, including Denison MP Andrew Wilkie, aims to raise the curtain on gambling addiction and clarify where the money goes.



"We know precious little money is returned to the community but I think we are yet to fully learn how much money is paid to political parties and politicians both on and off the books," Mr Wilkie said.

He said research had shown machines were made to be deliberately addictive and "trick" people into thinking they had won money with false wins.

"You put 10 dollars in and the bells

will go off and the lights will flash and you win five dollars back, when you have actually lost five dollars," he said.

"These are a dangerous machine and they should not be in the community without proper safeguards."

Mr Wilkie, alongside senators Nick Xenophon and Larissa Waters, pledged to use parliamentary privilege to protect whistleblowers if necessary.

Shonica Guy, a recovering gambling addict who is pursuing litigation against Crown Casino and Aristocrat, said she would have never touched the machines if she had known they were "secretly rigged."

"I thought it was all fun and entertainment but I was hypnotised and ripped off," she said.

Ms Guy stopped gambling about six years ago after joining a 12-step pokies anonymous program.

She said often those affected by gambling did not know what to do because they were "so hopelessly addicted."



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### Extraordinary tactics to nail whistleblowers moves us into dangerous era of secrecy

Chris Merritt  
*The Australian*

5 September 2016, pp. 23, 25

THE USE OF counter-espionage laws to track down a whistleblower in the National Broadband Network has intensified concerns that the nation is entering a new era of secrecy in which federal and state agencies are resorting to extraordinary tactics to identify those who reveal wrongdoing.

Experts in law and journalism have warned that the techniques being used over the NBN leaks show the legal



balance of power is shifting and journalists will find it increasingly difficult to protect their confidential sources.

As part of the response to the NBN leak, Australian Federal Police entered Parliament House last month armed with a search warrant that invokes a law designed to punish spies who obtain national security information—section 79(6) of the Crimes Act.

That warrant, which also refers to section 70 of that act, raises the prospect that prison sentences could be imposed not just on the person who revealed the cost blowout at the NBN, but on whoever received that information.



Photo: Glenn Hunt

The targets for that raid and earlier raids in Melbourne have been Labor staffers. Yet when Labor was last in office, it sat on a report that would have removed the legal basis for those raids.

Section 79—which is the provision that targets the recipient of leaked information—was criticised in 2009 by the Australian Law Reform Commission, which wanted it repealed along with section 70. It called for a new system that would foster open government.

At the time, Kevin Rudd was prime minister. Yet no federal government since then, Labor or Coalition, has moved to implement that recommendation—a point that was made last year by the Law Reform Commission in a report on laws that infringe freedoms.

George Williams, the Dean of Law at the University of NSW, is concerned that section 79 can be directed at journalists as well as political staffers. “This is one provision among many where secrecy provisions can be applied—not just against the whistleblower or leaker, but also against the media,” Professor Williams said.

Now that these provisions have been unleashed against Labor, cross-

bencher Nick Xenophon is hoping Labor will back his planned private member’s bill that could rewrite section 70 and section 79.

“It’s time we killed off this section,” Senator Xenophon said. “The net is now cast much wider and journalists and the public might not find out about botched government programs and issues of waste and mismanagement.” If enacted, his Crimes Act (Right to Know) Amendment Bill would fundamentally change the way governments deal with secrets and whistleblowers.

It would permit public servants to disclose information and allow others to receive it unless it has been established that there is an essential public interest to be protected by maintaining the secrecy of the information. Such an interest would include national security and public safety.

The Xenophon plan is modelled on a proposal from the media industry’s Right to Know coalition, which includes News Corp Australia, publisher of *The Australian*.

In 2008, when the Law Reform Commission was examining government secrecy, the Right to Know coalition called for section 70 to be repealed.

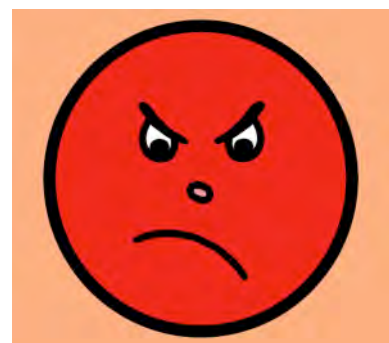
Like the Xenophon bill, the media industry wanted it replaced with a scheme that places an onus on public servants to disclose information unless it has been established there is an essential public interest to be protected by maintaining the secrecy of certain information.

The final report of the Law Reform Commission endorsed the idea of repealing section 70 and section 79. But it took a slightly different approach on what should replace them. It went further than the media industry and the Xenophon plan and wanted to make it even more difficult for people to be convicted for breaching government secrecy.

It wanted a new law with an express requirement for the prosecution to establish that an unauthorised disclosure of federal government information had caused, or was likely or intended to cause, harm to specified public interests.

At the moment, all unauthorised leaks from the federal bureaucracy are a crime even if they cause nothing

more harmful than red faces.



The commission’s report on secrecy, which was completed in 2009, was intended to encourage a pro-disclosure culture. In December of that year it was handed to Labor’s Robert McClelland, who was replaced as attorney-general by Nicola Roxon in December, 2011.

Mark Dreyfus, who has been outspoken in blaming the Turnbull government for the raids, succeeded Ms Roxon in 2013.

If any of those Labor attorneys-general had adopted the commission’s plan there would have been no legal basis for the NBN-related raids.

The NBN leaks, far from harming the public interest, appear to have served the public interest by revealing a problem with administration of a government business enterprise.

Senator Xenophon believed the current structure of the provisions “seems to be more about covering the back-sides of politicians rather than acting in the public interest.”

Peter Fray, Professor of Journalism Practice at the University of Technology, Sydney, agrees.

“They are being used to intimidate the media and threaten journalists and whistleblowers,” said Professor Fray.

“They are being used to silence public debate and free speech and the people who benefit from that are the people who should be held to account—politicians and public servants.” His concerns are in line with those of News Corp Australia executive chairman Michael Miller.

“News Corp Australia has vigorously voiced our deep concerns about the suppressive impact of a range of laws on journalists and their ability to report, and the public’s right to know,” Mr Miller said.

“These include laws that criminalise



journalists for doing their jobs, a lack of adequate protections for whistleblowers, and laws that undermine confidentiality of sources.

“Laws like this deny an opportunity for scrutiny, now and forever. This is untenable and does not serve the Australian democracy well,” Mr Miller said.

One of the laws causing most concern is section 35P of the ASIO Act which means a journalist can be jailed for up to 10 years for revealing activities that ASIO declares to be “special intelligence operations.”

Because ASIO’s activities are covert, media organisations have complained that journalists have no way of knowing which activities are covered by section 35P. That could expose reporters to the risk of prison even if they report wrongdoing or criminality by ASIO officers during one of these operations.

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## In solidarity with Snowden: Hong Kong refugees call for pardon of NSA whistleblower

Jason Murdock  
*International Business Times*  
26 September 2016

**Snowden lived with asylum seekers in Hong Kong after going rogue from the NSA.**



OVER 50 HUMAN RIGHTS campaigners, activists and asylum seekers held a protest at the US Consulate-General building in Hong Kong on Sunday 25 September to demand a presidential pardon for exiled NSA whistleblower Edward Snowden. The rally, organised by protest group Socialist Action alongside the League of Social Democrats and the Refugee Union, included a number of families who helped

Snowden hide from authorities for roughly two weeks after he fled the US with a trove of classified NSA material.

It was recently disclosed how the former intelligence contractor—who currently resides in Russia after being given temporary asylum—lived in the homes of numerous asylum seekers in Hong Kong while his legal team and WikiLeaks organised safe passage out of the country.

“It turned out that it was not the Hong Kong government that helped him. It was actually these very oppressed people,” Sally Tang Mei-ching, chairwoman of Socialist Action, told the *Hong Kong Free Press*.

“By using this event—even Snowden, someone who is so well known, supports asylum seekers—we hope to put pressure on the government and tell it that we support Hong Kong’s refugees and hope that Hong Kong people will support the refugees and pay attention to their situation. The media very rarely cover issues faced by refugees.”

Prior to the protest, Peter Maina, the Refugee Union secretary general, told the *South China Morning Post* the rally was being held to “show appreciation for Snowden’s expressions of solidarity” with refugees in Hong Kong. “We are motivated by the belief that ordinary people around the world have benefited from Snowden’s disclosures,” he said.

Indeed, in an exclusive interview with the *National Post* last month, Snowden said he was extremely thankful for the help during his time on-the-run.

“Imagine the world’s most wanted dissident is brought to your door. Would you open it? They didn’t even hesitate,” he said. “I’ll always be grateful for that. If not for their compassion, my story could have ended differently. They taught me no matter who you are, no matter what you have, sometimes a little courage can change the course of history.”

Throughout September, a number of human rights organisations including the American Civil Liberties Union and Amnesty International have called for Snowden to be granted a pardon by the Obama Administration before the next US election takes place. In a number of media appearances, the

infamous former NSA analyst said he believes that in time he will be forgiven.

“Once the officials, who felt like they had to protect the programmes, their positions, their careers, have left government and we start looking at things from a more historical perspective, it will be pretty clear that this war on whistleblowers does not serve the interests of the United States; rather it harms them,” he said.



A heated exchange during a pro-Snowden rally in Hong Kong.  
Photo: Socialist Action

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## The proper channels for whistleblowing still mostly a good way for messengers to get shot

Tim Cushing  
from the *snitches-get-unsustained-retaliation-complaints* dept  
*Techdirt*, 28 September 2016

WHISTLEBLOWER protections offered by the US government are great in theory. In practice, they’re a mess. This administration has prosecuted more whistleblowers than all previous administrations combined. The proper channels for reporting concerns are designed to deter complaints. Those that do use the proper channels are frequently exposed by those handling the complaints, leading to retaliatory actions that built-in protections don’t offer an adequate remedy for.

Perhaps the ultimate insult is that the proper channels lead directly to two committees that have—for the most part—staunchly defended agencies like the NSA against criticism and any legislative attempts to scale back domestic surveillance programs. The House and Senate Intelligence Committees are the “proper channels,” whose offered protections can only be seen as the hollowest of promises,

especially after the House Intelligence Committee's lie-packed response to calls for Snowden's pardon.



What the federal government offers to whistleblowers is a damned if you do/don't proposition. Bypass the proper channels and brace yourself for prosecution. Stay within the defined lanes and expect nothing to change—except maybe your security clearance, pay grade, or chances of advancement within the government.

Congress doesn't have much legal power to protect intelligence community employees from such retaliation. The Pentagon's inspector general website concedes Congress cannot "grant special statutory protection for intelligence community employees from reprisal for whistleblowing."

In most cases of personal or professional retaliation, it ends up being the whistleblower's problem, says Tom Devine, the legal director for the Government Accountability Project. "The problem is that whistleblowers making most complaints proceed at their own risk," he said in an interview. "There are no independent due process protections for any intelligence community whistleblowers. And contractors don't even have the right to an independent investigation unless there's security clearance retaliation."

The limited evidence that has surfaced about using the "proper" whistleblower channels suggests the protections granted by the government are mostly meaningless. The intelligence committees won't comment on the treatment of government employees who have approached them to blow the whistle. Government contractors

working within the intelligence community are even more tight-lipped, suggesting even civilians are on their own when attached to government programs or projects.

The few reports that have made it out into the open indicate it's almost impossible for a whistleblower to prove any actions taken against them post-whistleblowing are actually retaliatory. An Inspector General's investigation of a whistleblower's retaliation complaints determined that anything that had happened to the whistleblower could not be conclusively linked to the Defense Department employee's whistleblowing.

All that can be determined is that dozens of whistleblower complaints do make their way to the intelligence committees every year. But even this is based on the assertions of the House Intelligence Committee, which refused to provide any further details. The outcome of the whistleblowing remains under wraps and there are no publicly-released statistics that total the number of complaints, much less which percentage of complaints are found substantial and investigated further.

Government employees and contractors are just expected to trust the federal government which, given its response to whistleblowers over the past two decades, isn't going to nudge edge cases away from bypassing the laughable "protections" and proceeding directly to journalists willing to actually protect their sources.



## Truthdigger of the week: CIA whistleblower Jeffrey Sterling, in prison and fighting for his life

Natasha Hakimi

*Truthdig*, 24 September 2016



Former CIA officer Jeffrey Sterling leaves the federal courthouse in Alexandria, Virginia, with his wife, Holly, after being convicted in 2015 on nine counts of leaking classified information to a *New York Times* reporter. (Kevin Wolf/AP)

*Every week the Truthdig editorial staff selects a Truthdigger of the Week, a group or person worthy of recognition for speaking truth to power, breaking the story or blowing the whistle. It is not a lifetime achievement award. Rather, we're looking for newsmakers whose actions in a given week are worth celebrating.*

WHEN JEFFREY STERLING was in his last year of law school, he was drawn to a newspaper ad that announced the promise of travel while serving the country as an agent for the Central Intelligence Agency. Part of a family of military service members, Sterling dreamed that the CIA would allow him to give back to the United States. Little did he know that his employment at the agency, which began in 1993 and ended in 2001, would turn into a nightmare of racial discrimination and persecution that would last decades.

Early in his career at the CIA, Sterling began to sense that he was treated differently because of his skin tone, a fact highlighted to him when he was pulled from an assignment in Germany with the explanation that "a black man speaking Farsi" would seem conspicuous. Sterling says this is just one example of the many ways his spy agency career was held back because of his race. Years of mistreatment led him to become the first African-



American to file a racial discrimination suit against the CIA, an act of bravery the US government would make him pay dearly for.

When, after the 9/11 attacks, Sterling felt inspired to help the agency tackle terrorism, he offered to drop his suit. Instead of enthusiasm for his dedication, he was met with a dismissal. As one of his colleagues put it, quoting a song by the late Jim Croce, he had “tugged on Superman’s cape.” *The Intercept*’s Peter Maass explains the ways in which Sterling’s heroism got under the CIA’s skin in a thorough piece about the whistleblower’s ordeal, “How Jeffrey Sterling took on the CIA—and lost everything.”



Jeffrey Sterling

In 2001, as he was leaving the agency, he filed a federal lawsuit that said the CIA retaliated against him for making an internal discrimination complaint, and that he had indeed faced a pattern of discrimination there. The suit was dismissed by a judge after the CIA successfully argued in pre-trial motions that a trial would expose state secrets by disclosing sources and methods of intelligence-gathering. An appeals court upheld that ruling, though it noted that the dismissal “places, on behalf of the entire country, a burden on Sterling that he alone must bear” by being deprived of his right to a trial. The dismissal spared Sterling’s supervisors from testifying about their interactions with him. The government has not provided specific responses, in court or to the media, about his accusations of racial discrimination, other than to generally state that he faced none.

He tugged on the CIA’s cape in

other ways. He wrote a memoir, tentatively titled *Spook: An American Journey Through Black and White*, and submitted chapters for pre-publication review. According to a lawsuit Sterling filed in 2003, the CIA determined that his manuscript contained classified information that should not be published, and demanded that he add information that, his suit said, was “blatantly false.” Facing a tough legal battle with a presiding judge who seemed sympathetic to the CIA, Sterling eventually agreed to drop the suit. His manuscript has not been published.

Also in 2003, Sterling met staffers from the Senate Select Committee on Intelligence to let them know his concerns about the mismanagement of a classified program he worked on at the agency. Merlin, as the program was called, involved the CIA giving Iran faulty nuclear blueprints. If the blueprints were used, Iran’s nuclear program would be delayed. The blueprints were given to the Iranians by a Russian scientist who lived in the United States, and Sterling was his CIA handler. The CIA has said the program worked well, but Sterling told the committee staffers it was botched and that the Iranians learned the blueprints were flawed; the Iranians might have gained nuclear insights from the accurate parts.

After his career at the agency was terminated, he struggled to find employment for years, during which he ended up selling his belongings and sleeping in his car until he was able to work for friends as a “manny.” Against all odds, Sterling was eventually able to rebuild his life, working in health insurance and marrying Holly, a social worker.

Sterling had begun to feel that his chapter with the CIA was finally behind him when the book *State of War*, by *New York Times* journalist James Risen, was published in 2006. It included a chapter detailing the very program that Sterling had denounced to the Senate. The former CIA agent then became an FBI target—agents tried to search his home and interrogated him and his wife. And yet, after this intrusion, four years passed in torturous waiting until the US government again decided to persecute Sterling, this time under the draconian

Espionage Act, which the Obama administration has mercilessly used to suppress more whistleblowers than have all other presidential administrations combined.

Sterling became another “first” in our nation’s history books when, despite entirely circumstantial evidence tying him to Risen, he became the first person to be convicted under the Espionage Act. The whistleblower was convicted of nine felony counts in a trial in Virginia, proceedings which investigative reporter Marcy Wheeler told *The Real News Network* had a number of shortcomings, including the facts that the jury did not include a single black person, the trial took place in the CIA’s “backyard” and, while some crucial evidence was withheld, other evidence was introduced without proper procedures being followed.

At no point during or since the trial has Sterling said he was guilty of the charges against him. If anything, he went through the appropriate procedures in place for whistleblowers by testifying before the Senate. But sadly, his case illustrates how even when government officials attempt to use the avenues in place, they are often ignored or, worse, persecuted for their efforts. What’s more, CIA heads like General David Petraeus, who leaked more top-secret information to his partner than Sterling was accused of doing, went completely unpunished.



David Petraeus, unpunished leaker

The same *Intercept* piece explains this discrepancy:

Until Barack Obama was elected president, the Department of Justice



rarely prosecuted leakers. Obama promised, as a candidate, to create the most transparent administration ever, but he has presided over more leak prosecutions under the Espionage Act than all previous administrations combined. Dennis Blair, the director of national intelligence during Obama's first term, told the *Times* that a decision was made in 2009 to "hang an admiral once in a while," as Blair put it, to show would-be leakers they should not talk to the press. The Justice Department did not charge high-level officials, however; mid-level officials were the principal targets, and it appears that Sterling's all-but-shut case was brought back to life as part of the crackdown.

Sterling was eventually sentenced to 3½ years in prison in 2015 and is now suffering in a Colorado detention center where he is being denied critical health care for a heart condition. Fellow CIA whistleblower and Truthdig contributor John Kiriakou reported Monday that Sterling appeared to have suffered a heart attack in prison, a year into his sentence. Kiriakou outlined Holly Sterling's efforts to get her husband the appropriate medical care, writing:

Holly Sterling has been tireless in her work to get her husband to a cardiologist. She asked Jeffrey's sentencing judge, Leonie Brinkema, to intervene. Brinkema refused. She then enlisted the support of Norman Solomon's Roots Action, which has asked supporters to call Warden Deborah Denham at 303-763-4300. In addition to the warden, Solomon recommends contacting the Bureau of Prisons' North Central Regional Office by calling Sara M. Revell at 913-621-3939 or writing to her at [ExecAssistant@bop.gov](mailto:ExecAssistant@bop.gov). Our grassroots pressure may be the only thing that gets Jeffrey Sterling to a cardiologist. It could save his life.

Sterling, like Kiriakou, has become an example of what the US government is willing to do to the heroes who stand up for what the nation should stand for, and how it will persecute whistleblowers at all costs to stem leaks that damage its image. Sterling's case has

been seen as an attempt to divide journalists and whistleblowers, as activist Norman Solomon told Amy Goodman on "DemocracyNow!" shortly after a film about Sterling on which he collaborated was released. Watch the full 12-minute film *The Invisible Man*, <http://bit.ly/2dCmN5m>.

## Deutsche Bank whistleblower rejects award because SEC "went easy" on execs

Jana Kasperkevic  
*The Guardian*, 19 August 2016

**Eric Ben-Artzi, a former risk officer, told the agency to give his share of \$16.5m award to Deutsche and its shareholders after "disappointing" investigation of bank.**



A DEUTSCHE BANK whistleblower has turned down his share of the \$16.5m whistleblower award, stating that the Security Exchange Commission (SEC) did not do enough to punish the executives responsible for the bank's wrongdoing.

Eric Ben-Artzi, a former risk officer, went to the regulators after he was fired by Deutsche Bank for raising alarm over the bank's inflated valuation of its portfolio of credit derivatives. According to him, by imposing a \$55m fine on the bank but letting the executives off scot-free, the SEC has instead punished the bank's "rank-and-file" employees and shareholders.

"I request that my share of the award be given to Deutsche and its stakeholders," he wrote on Thursday in an opinion piece published by the *Financial Times*. (Ben-Artzi was eligible to receive \$8.25m, according to the *FT*.) He noted that financial award was a "powerful incentive" when he first decided to help SEC and that he is not

"at liberty to reject" the award since a portion of it belongs to his lawyers and his ex-wife.



Are financial whistleblowers worth it? Study says yes—to the tune of \$21.27b

Ben-Artzi said that the result of SEC's lengthy investigation was "disappointing" and that "top executives retired with multimillion-dollar bonuses based on the misrepresentation of the bank's balance sheet."

The reason why Deutsche Bank was only subject to a \$55m fine is that its top lawyers have long been "revolved" in and out of the SEC, according to Ben-Artzi.

"Robert Rice, the chief lawyer in charge of the internal investigation at Deutsche in 2011, became the SEC's chief counsel in 2013," he wrote. "Robert Khuzami, Deutsche's top lawyer in North America, became head of the SEC's enforcement division after the financial crisis. Their boss, Richard Walker, the bank's longtime general counsel (he left the bank this year) was once head of enforcement at the SEC."



Elizabeth Warren to SEC chair: you make a "disappointing" Wall Street cop

Ben-Artzi added that Mary Jo White, the current chair of the SEC, has known both Rice and Khuzami for as long as 20 years. She "bears the ultimate responsibility for the Deutsche fine," he wrote.

"We brought all of the charges supported by the evidence and the law, which were unanimously approved by the Commission," Andrew Ceresney, director of the division of enforcement,

said in a statement provided to the *Guardian*.

White's ties to the banking industry had previously drawn ire from Massachusetts senator Elizabeth Warren. Last year, Warren sent White a 13-page letter telling her that she found her performance as Wall Street's top cop "disappointing."

Ben-Artzi, who was fired by Rice, said that being let go ruined his Wall Street career. He now works as vice-president of risk analytics at BondIT, a fixed-income portfolio management company.

Sherron Watkins, who blew the whistle on accounting irregularities at Enron, previously said that more than a decade later she was unable to get a job in corporate America.

"I have this label 'whistleblower' which is synonymous with trouble-maker," she said in 2014, before praising SEC's whistleblower program. "That's sort of the story of even the most well-known whistleblowers ... You are out of your industry. That's why I welcome this program, because you have to reinvent yourself and it's not always easy. Rarely do people have the notoriety that I have, where I am on the lecture circuit. It's a problem."

In his op-ed, Ben-Artzi said that while he needs the award money "now more than ever," he will "not join the looting" of the Deutsche Bank shareholders.



One whistleblower gets \$30m, but others count the personal cost.

"I never intended to turn a job in risk management into a crusade, but after suffering at the hands of the Deutsche executives I will not join them simply because I cannot beat them," he wrote.

He added that he would happily collect the award if the money was "clawed back from the bonuses paid to the Deutsche executives, especially the former top SEC attorneys."

Earlier this year, while awarding its

second largest whistleblower award at \$17m, SEC noted that the award program is instrumental in encouraging people with insider knowledge to come forward. By June, the SEC whistleblower program had awarded more than \$85m to 32 whistleblowers. According to an analysis by the *Wall Street Journal*, more awards are coming. SEC settlements with State Street Corp and Bank of New York Mellon Corp could lead to a number of whistleblower awards totaling \$100m, according to *WSJ*.

Public coverage of the award announcement often leads to more tips being sent to the SEC. Yet as Ben-Artzi's op-ed shows, the results are not always to the whistleblower's liking.

According to the *Financial Times*, Ben-Artzi is the first whistleblower to refuse an award since the program was launched in 2011.

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## The SEC whistleblower program's quiet success

David Floyd

*Investopedia*, 26 September 2016

FOLLOWING last week's award of over \$4 million, the US Securities and Exchange Commission's (SEC) Office of the Whistleblower has paid out \$111 million to 34 whistleblowers in its five short years of existence. This is all the agency had to say about the case in question.

Washington DC, Sept. 20, 2016—The Securities and Exchange Commission today announced an award of more than \$4 million to a whistleblower whose original information alerted the agency to a fraud.



While that sort of terseness may not be ideal for reporters, it points to one of the SEC whistleblower program's greatest strengths: its reputation for air-tight confidentiality. To date, the details the public knows about the office's cases hardly fill a paragraph.

A \$22 million award last month stemmed from Monsanto's \$80 million settlement with the SEC in February; the whistleblower's attorney revealed that much, but not the identity of his client, an ex-Monsanto executive. We do know the name of a Deutsche Bank AG executive who blew the whistle on his employer, because he wrote a scathing Op-Ed under his own name in the *Financial Times* last month.

Aside from those scraps, we have dates and dollar amounts. Such secrecy would seem to work against a crucial prerequisite for the program's success—publicity. If no one knows about the program, no one submits tips. Yet the trickle of information has apparently alerted potential whistleblowers to three key aspects of the program: their identities will be protected; they will be shielded from retaliation, should they be outed; and there's money in it for them—for their trouble, and as insurance against the career-ending retaliation they could conceivably suffer.

All things considered, the SEC has achieved something "remarkable and unprecedented," says Jordan Thomas, a partner at Labaton Sucharow LLP who represents whistleblowers in securities fraud cases. In a conversation with *Investopedia* Tuesday, he compared the office to a startup: "they opened up a business when Dodd-Frank was passed six years ago, there was no market awareness of the program, and there'd never been a program like it." Now 63% of U.S. financial services professionals are aware of the office, according to a survey Labaton Sucharow carried out with the University of Notre Dame in 2015.

### How did the whistleblower program begin?

In a September 14 speech, Andrew Ceresney, the director of the SEC's Division of Enforcement, described the beginnings of the program, which initially consisted of its first chief, Sean McKessy, his deputy, and five



staff. Having swelled to 20 people today, the office is hardly a sprawling bureaucracy, but as McKessy—who left to join Phillips & Cohen LLP as a partner in July—put it to Investopedia Tuesday, it “started from a standstill.”

The program was created by the Dodd-Frank Act in 2010 and began operating in August of the next year. Part of the impetus was the SEC’s failure to act on tips going back to 1999 that Bernie Madoff’s wealth management was a Ponzi scheme. At the time, options for whistleblowers were limited. The Department of Justice’s program leaves nothing to the imagination: complaints are unsealed, meaning that the identities of whistleblowers (“relators” in False Claims Act jargon) are exposed. The IRS’ program does not protect against retaliation. Prior to the whistleblower office’s founding, the SEC only accepted tips related to insider trading cases, and rewards were capped at 10% of the penalties.



President Barack Obama signs the Dodd-Frank Wall Street Reform and Consumer Protection Act alongside members of Congress, the administration and US Vice President Joe Biden, on 21 July 2010.

The new program faced its share of criticism, however, particularly for a provision that allowed whistleblowers to bypass internal compliance departments. The Sarbanes-Oxley Act of 2002 had forced companies to set these up in response to an earlier wave of scandals: Enron, WorldCom and Tyco International. Companies pushed hard against the program’s approval, including, the *New York Times* reported, General Electric, JPMorgan Chase and Google (since reorganized as Alphabet). When the SEC decided to go

ahead with the office’s creation in a 3–2 vote in May 2011, the US Chamber of Commerce thundered, “the SEC has chosen to put trial lawyer profits ahead of effective compliance and corporate governance.” It elaborated:

Armed with trial lawyers and new large financial incentives to bypass these programs, whistleblowers will go straight to the SEC with allegations of wrongdoing and keep companies in the dark. This leaves expensive, robust compliance programs collecting dust, while violations continue to fester, eroding shareholder value.

To assuage these concerns, the agency tweaked the rules so that whistleblowers who report wrongdoing internally first receive a larger reward. According to Thomas, concerns that people would stop reporting internally haven’t been borne out.

As of August 30 (before the most recent \$4 million award), the program had received over 14,000 tips, and those from every state, DC, and 95 foreign countries. The program’s success is reflected in the accelerating rate at which tips are being submitted. Over \$504 million has been ordered in sanctions, including \$346 million in disgorgement and interest for wronged investors. As the SEC often points out, “No money has been taken or withheld from harmed investors to pay whistleblower awards.” McKessy said, “you would be hard-pressed to find a government-sponsored rewards program that paid more people faster,” adding, “it’s very gratifying for me to look back and say we could accomplish that on my watch.”



Few whistleblowers are in it for the money, and few receive big payouts.

## How much do whistleblowers get paid?

No SEC whistleblower has ever come away with anything like ex-UBS Group banker Bradley Birkenfeld’s \$104 million reward from the IRS’s whistleblower office, but they still do alright, and the program is in its early days. Below are the top 10 awards, along with anything we happen to know about the circumstances surrounding them:

\$30 million, 22 September 2014, paid to a foreign whistleblower  
 \$22 million, 29 August 2016, awarded to an ex-Monsanto executive as part of an \$80 million settlement over the way the company booked sales of Roundup  
 \$17 million, 9 June 2016, offered to former Deutsche Bank executives for reporting fraud in the wake of the financial crisis. Eric Ben-Artzi publicly refused his \$8.25 million share of the award.  
 \$14 million, 30 September 2013  
 \$5–6 million, 17 May 2016  
 \$4 million, 20 September 2016  
 \$3.5 million, 13 May 2016  
 \$3 million, 17 July 2015  
 \$2 million, 8 March 2016  
 \$1.4–1.6 million, 22 April 2015

Whistleblowers can receive between 10% and 30% of the penalties companies pay, as long as these penalties exceed \$1 million. Where the award falls in this range can depend on how helpful the information was to the regulators’ case. It does not have to lead to an entirely new investigation, for example, but if it does, that could mean a bigger payout. As mentioned above, going through internal compliance procedures can boost the payout, although the incentives appear to be skewed towards reporting to the SEC simultaneously or soon after (within 120 days): that way, the whistleblower receives credit for any information that the company’s compliance department subsequently provides.

Having participated in the wrongdoing is not a deal-breaker, but it will reduce the whistleblower’s reward. Similarly, “unreasonably delayed” reporting reduces the payout, reducing the incentive to allow the wrongdoing to play out for a little bit (that tactic would increase the harm done, and



consequently the penalties and size of the award).

### Who really benefits?

The key question surrounding the program is who really benefits from it? Whistleblowers who receive multimillion dollar payouts whose identities are protected and who can count on federal heft to shield them from possible retaliation clearly come out alright. But who is paying these generous rewards? Not taxpayers, the SEC is at pains to clarify every time it announces a payout. The funds come from a \$450 million pot established by Dodd-Frank that is funded by the penalties companies pay.



Who pays the penalties themselves has proved controversial, however. When Deutsche Bank's Eric Ben-Artzi refused his \$8.25 million reward for blowing the whistle on the bank's inflated balance sheet, he explained that he was protesting the SEC's failure to go after the managers responsible for the wrongdoing. "I will not join the looting of the very people I was hired to protect," he wrote in a *Financial Times* op-ed last month. He asked that the award "be given to Deutsche and its stakeholders, and the award money clawed back from the bonuses paid to the Deutsche executives."

McKessy, who was chief of the whistleblower office when the SEC brought its case against Deutsche Bank, would not comment specifically on Ben-Artzi's op-ed. He pointed out that the whistleblower division was not responsible for enforcement, only for making recommendations regarding rewards. He also defended the work of the SEC's enforcement division, where he has worked in the past: "enforcement staff is very sensitive to the idea that holding individuals accountable should be part of the mandate."

He also drew a contrast between "what you instinctively feel to be true" and "what you can prove in a court of

law." Holding individuals accountable for corporate actions presents "interesting challenges when it comes to building an evidentiary base." Public frustration, he suggested, may be "overheating."

But even if they still suffer as a result of executives' wrongdoing, shareholders may be enjoying some indirect benefit from the new system. McKessy thinks it has acted as a "catalyst for improvement" at compliance departments and a potential incentive for companies to self-report because it's always possible that a whistleblower has already gone to the SEC. Thomas echoed this sentiment, as did Jane Norberg, acting chief of the whistleblower office who spoke to *Investopedia* Tuesday. All else being equal, stronger internal safeguards mean fewer big fines and less negative publicity.

### How are companies fighting back?

Naturally, some companies are pushing back against the potential threat to their reputations and finances. As mentioned above, a number of large corporations submitted comments to the agency opposing the program prior to its creation. Since it's been operating, some have attempted to discourage blowing the whistle or retaliated against those who have.

The SEC has already begun to crack down on attempts to discourage whistleblowing, what McKessy calls "pretaliation." In April 2015 it settled with KBR for \$130,000 after the company required witnesses in internal investigations to sign confidentiality agreements saying they could be fired if they brought the issues up with outside parties. In June of this year Merrill Lynch, Bank of America's wealth management division, changed its policies after the SEC found it had included language in severance agreements that prevented employees from providing information to the regulator; it simultaneously paid \$415 million to settle charges that it improperly used customer deposits for trading. Last month BlueLinx Holdings and Health Net—since acquired by Centene—agreed to pay \$265,000 and \$340,000, respectively, after requiring outgoing employees to waive their rights to whistleblower awards in order to receive severance packages.

Companies may still be trying to silence whistleblowers. Later in August Reuters reported that settlements between former employees and Wells Fargo, Advanced Micro Devices, Fifth Third Bancorp and others, which the organization obtained through Freedom of Information Act requests, contained provisions that limit the workers' ability to collect rewards for whistleblowing.

### Should you blow the whistle?

Many workers feel loyalty to their employer, even when they know bad actors are in management. They also justifiably fear reprisal, or as the old saying goes, "snitches get stitches" [meaning informers will be stabbed and need sutures].



The old axiom doesn't apply, however, if the snitches can't be found. McKessy told *Investopedia* he is "not aware of a single incident when a whistleblower was outed," including when the SEC cut them multimillion-dollar checks. As Thomas put it, "anonymity is a powerful thing." If a whistleblower's identity were to slip out, however, there are safeguards in place to protect them from retaliation. Not only can the SEC go after vindictive employers, Dodd-Frank allows whistleblowers to sue their employers in federal court. That, of course, sounds like a career-killer, but once you're done tallying up your reinstatement, double back pay and potentially hefty reward, you might not care. Sometimes, snitches get rich.

Also worth noting: the only SEC whistleblower to out himself, Ben-Artzi, has a job. He works at BondIT, a startup based outside Tel Aviv.

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## Whistleblowers Australia contacts

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**Postal address** PO Box U129, Wollongong NSW 2500  
**Website** <http://www.whistleblowers.org.au/>

### New South Wales

**“Caring & sharing” meetings** We listen to your story, provide feedback and possibly guidance for your next few steps. Held by arrangement at 7.00pm on the 2nd and 4th Tuesday nights of each month, Presbyterian Church (Crypt), 7-A Campbell Street, Balmain 2041. Ring beforehand to arrange a meeting.

**Contact** Cynthia Kardell, phone 02 9484 6895, [ckardell@iprimus.com.au](mailto:ckardell@iprimus.com.au)

**Wollongong contact** Brian Martin, phone 02 4221 3763.  
**Website** <http://www.bmartin.cc/dissent/>

**Queensland contacts** Feliks Perera, phone 07 5448 8218, [feliksfrommarcoola@gmail.com](mailto:feliksfrommarcoola@gmail.com); Greg McMahon, phone 07 3378 7232, [jarmin@ozemail.com.au](mailto:jarmin@ozemail.com.au)

**Tasmania** Whistleblowers Tasmania contact, Isla MacGregor, phone 03 6239 1054, [opal@intas.net.au](mailto:opal@intas.net.au)

**Schools and teachers contact** Robina Cosser, [robina@theteachersareblowingtheirwhistles.com](mailto:robina@theteachersareblowingtheirwhistles.com)

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Thanks to Cynthia Kardell and Margaret Love for proofreading.

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## Whistleblowers Australia conference

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See page 2 for details

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## Annual General Meeting

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Whistleblowers Australia's AGM will be held at 9am Sunday 19 November at the Uniting Conference Centre, North Parramatta (Sydney). See page 2.

**Nominations** for national committee positions must be delivered in writing to the national secretary (Jeannie Berger, PO Box 458, Sydney Markets NSW 2129) at least 7 days in advance of the AGM, namely by Sunday 12 November. Nominations should be signed by two financial members and be accompanied by the written consent of the candidate.

**Proxies** A member can appoint another member as proxy by giving notice in writing to the secretary (Jeannie Berger) at least 24 hours before the meeting. No member may hold more than five proxies. Proxy forms are available online at <http://www.whistleblowers.org.au/const/ProxyForm.html>.



## Whistleblowers Australia membership

Membership of WBA involves an annual fee of \$25, payable to Whistleblowers Australia. Membership includes an annual subscription to *The Whistle*, and members receive discounts to seminars, invitations to briefings/ discussion groups, plus input into policy and submissions.

To subscribe to *The Whistle* but not join WBA, the annual subscription fee is \$25.

The activities of Whistleblowers Australia depend entirely on voluntary work by members and supporters. We value your ideas, time, expertise and involvement. Whistleblowers Australia is funded almost entirely from membership fees, donations and bequests.

*Send memberships and subscriptions to Feliks Perera, National Treasurer, 1/5 Wayne Ave, Marcoola Qld 4564. Phone 07 5448 8218, [feliksfrommarcoola@gmail.com](mailto:feliksfrommarcoola@gmail.com)*