

A whistleblower's guide to journalists

Brendan Jones

I'M a whistleblower, and I wanted media coverage of my story. But how? When my initial efforts were unsuccessful, I decided to find out more about how the media operate. Here's what I learned, drawing on contacts with many journalists and whistleblowers, some of whom are quoted here.

For many whistleblowers, the greatest benefit of going to the media is vindication that a journalist looked at their claim independently and found it was true. This is very powerful, since even politicians take their cue from journalists before taking action or asking questions in parliament.

However whistleblowers need to be realistic. Publication won't put their life back to normal. Abuse against them will continue, and publication only solves a problem 10% of the time.

But the greatest shock to the whistleblower is the discovery that despite the popular image of reporters elbowing each other for scoops, no one will touch their story. It may be too complicated, too difficult to verify, too hot, not significant enough or too old. The biggest problems are lack of time, and that there are far easier stories out there.

Journalists need solid and confirmed leads

The last thing a journalist wants to do is spend time on a story that goes nowhere.

Your story must be solid and confirmed, but this isn't always possible. Corrupt officials tightly control information, so leads can be weak. Fitzgerald inquiry whistleblower Nigel Powell recently said:

Now, what was I saying then — had I actually seen corruption take place? No. Had I had actual evidence of money crossing hands? No. I had my suspicions, which no longer sounds like it would be enough to make a (CMC) complaint.

To convince a journalist whistleblowers must provide compelling evidence,

but that's hard if they're inexperienced, and it may expose them to more danger.

Oral evidence or suspicions are only useful if they lead to documentary evidence, but this can be very hard to get. The public service can sit on Freedom of Information requests for years, and public servants who help journalists risk imprisonment. Google is, however, extremely useful. It can reveal a lot about people, identifying potential conflicts of interests through their relationships. It can familiarise you with the law, and even though corrupt officials will hide many documents, they can't hide all of them. You will be amazed what you can turn up. Find other witnesses, but vet them carefully.

Be warned: journalists cannot tell your story while you have a lawsuit. Lawsuits can drag on for years.

Stories must be fresh and interesting (to people besides you)

Stories are best told fresh, so ideally the whistleblower should approach the journalist right after the incident has taken place. However whistleblowers inevitably first try internal complaints units that stonewall complaints and can sit on them for years. Commonwealth whistleblowing laws force public servants to use these. By that time the story has lost its appeal, and is history, not news.

Stories stand the best chance if they are of "popular interest." Journalist Evan Whitton recommends aiming at the hip pocket nerve: quantify corruption in dollar values, or increased street crime. Stories affecting small groups don't pass the "popular interest" test, but when a face is put to them can be of human interest. Leslie Cannold says: "Stories move emotion and change things for people in the way that abstract arguments and reason do not."

Journalist Wendy Bacon says

The biggest criterion is probably how closely a story is linked to the news agenda. It is up to the skills of the journalist to find a way to link it with current issues.

Jason Whittaker of Crikey says

As much as journalism is a public service, there's no point writing it if

nobody reads it. We have to make decisions on what is most interesting and beneficial to readers, but we're always happy to talk to anyone that has information they believe is in the public interest. Crikey does have a dedicated "tips" section for information that is perhaps not of broad interest but may interest smaller groups.

Too hot to handle

Australia has exceptionally harsh defamation laws. "A lot of work is required to prepare and check articles that are potentially defamatory." These are difficult stories to write. Eddie Obeid told investigative journalist Kate McClymont: "I tell you what, you put one word out of place and I will take you on again. You are a lowlife. I will go for you, for the jugular."

Defamation may become an issue later on, but a journalist who says up-front they can't do your story because of defamation is fobbing you off. Wendy Bacon warns

Some journalists may blame defamation for not doing stories when really the problem is lack of time, too busy, lack of sympathetic editorial environment or lack of will to do the hard word necessary. Mostly you can publish something — with some adjustments to get around tricky points.



Wendy Bacon

Evan Whitton agrees "Libel laws can also be an excuse for a reporter's sloth."

Although the “truth” is a defence to defamation, lawsuits are time consuming and expensive to defend. It’s also possible to tell the truth and still lose, so a wealthy or powerful person can shut down a story merely with the threat of a defamation action.

This isn’t the case in the US where the *Public Figure Doctrine* allows journalists to report corruption by public officials in a timely manner. All journalists interviewed for this article support law reform to protect journalists covering public interest stories.

Time and cost

Wendy Bacon says

The biggest difficulty for the whistleblower is finding a journalist who has the time to do the work. Even with people who can mentally package a large amount of information, you need to have lots of time at a stretch to do complicated stories. This requires a huge amount of focus and there are simply not mainstream employers prepared to do that now, except on the rare occasion. It was always difficult but it was better.

Sue Spencer says expense does not deter “4 Corners”, though they only have a limited number of episodes.

Even if a journalist wants to do a story, their editor or producer must approve it. They will weigh up how much work the story requires, budget, editorial space (a major factor) and what more promising stories the journalist could be working on that better fit the news agenda.

It’s not just a matter of getting a journalist to pick your story. It’s a matter of getting them to pick yours from all the alternatives.

Section 70

Section 70 of the *Crimes Act* is used to prevent the public from learning about Commonwealth corruption and maladministration. Public servants reporting it to the media risk two years jail. The courts are unsympathetic.

Public servants leaking anonymously can still be caught. I don’t believe anyone acting in the public interest should have to risk jail. Government departments — even Health and Ageing — have warrantless access to your communications so

corrupt officials and the Australian Federal Police (who prosecute whistleblowers) can see which journalists you are talking to. Phones can be tapped.

Journalists can make it safer for whistleblowers by offering anti-spying technology such as Strongbox or PGP encrypted e-mail. Whistleblower Edward Snowden said “It should be clear that unencrypted journalist-source communication is unforgivably reckless.”

Sue Spencer says *Section 70* and risk of defamation can cause “4 Corners” to not proceed with stories.

Section 137

Section 137 of the *Criminal Code* makes it an offence to supply false and misleading information to a public official. Don’t fall into the trap of denying a question they already know an answer too. See a lawyer first.

What to look for in a journalist

Only deal with experienced investigative journalists with demonstrable track records.

Look at their stories and at other stories in their publication. Avoid journalists who have ridiculed or lumped whistleblowers in with the corrupt officials they are reporting. Beware some will take digs at whistleblowers to “balance” their articles. Avoid those who largely echo reports from institutions without adequately questioning statements or assumptions. Do not assume a journalist is trustworthy just because they present well on TV or radio.



Andrew Hooley warns “Avoid ‘hack’ journalists who publish often and without substance as they go after the

easy grab story irrespective of the potential damage.”

Avoid “daily” journalists expected to produce articles quickly with very little research. They don’t have the time, experience or editorial support to do an in-depth story. These include most journalists in TV news and current affairs.

Avoid “beat” journalists too. They focus on a particular sector or institution, building a network of people to provide them with a steady flow of information so they can publish frequently.

Favours such as tips or an exclusive interview can create a strong sense of mutual obligation in a journalist. Just meeting a man, shaking hands and exchanging pleasantries can disincline a journalist from publishing information which could destroy his career, or even just make him cross.

A reporter who relies on a source for easy information must look the other way when the source is involved in dubious practices. Evan Whitton calls such a journalist “a prisoner of the source” which is why for example “investigative reporting into police has got to be done from outside traditional police reporting.”

It’s worth noting that the story of endemic corruption within the Commonwealth Public Service was not broken by a Canberra journalist, but by an investigative journalist in Sydney.

Although the government publicly attacked the credibility of his reports, there was no follow-up or support from Canberra-based journalists. Labor Minister for the Public Service Gary Gray appeared to drive a wedge when he said:

This week *The Canberra Times* referred to a number of allegations about fraud, corruption and misconduct in the public service, which were previously reported in the *Sydney Morning Herald*. *The Canberra Times* rightly pointed out that there is no evidence of endemic corruption, or a culture of complacency, in the APS [Australian Public Service]. Correctly, *The Canberra Times* argued that sufficient anti-corruption systems exist and acknowledged that there is no need for an independent corruption commission like those that exist in

New South Wales and Western Australia.

Steve Davies of Ozloop says:

I am perplexed at the degree of passive reporting by *The Canberra Times*. In my opinion, much reporting is effectively a rehash of the APS “party line.” The media needs to understand criticising the public service is not the same as criticising the government. Self-censorship damages all these institutions.

Don’t fixate on TV. Often newspaper is a better medium.

Journalists don’t share information, so speak to all reputable investigative journalists to touch base and see if anyone is already on the story. Given a choice, choose the journalist with the most drive. Be aware that they will drop the story if their initial sniffing doesn’t quickly bear fruit. If they drop the story, they will not tell you. Once a journalist looks at a story, however briefly, they won’t look at it again, even if new evidence emerges.

Andrew Hooley of Victims of CSIRO says “Always choose a journalist who has a reputation as an outstanding person in their field as they have far more regard for their reputation and will be more professional in their approach to the story.”

Talking to journalists

Time is valuable to investigative journalists. Get straight to the point.

Position your message to slot into the journalist’s mind. Evan Whitton says “Reduce what you want to tell the reporter to three or four words, as on a huge billboard on the side of the road.”



Evan Whitton

Write a summary of your story in no more than 400 words. Condense that into one or two sentences. The latter becomes what business people de-

scribe as your “elevator pitch.” Write a separate chronology describing very briefly what happened on what date. Organise your documentation.

It’s best to make initial contact via a short phone call. If you e-mail, keep it short, using your elevator pitch. Don’t attach any documents or letters. This is counterintuitive, but the more documentation you send, the less likely they will do your story. They will only reply if they’re interested. If they don’t, look elsewhere.

Think carefully about what you want to achieve from approaching a journalist. When you talk keep your answers brief. If you can’t make a point in 15 to 30 seconds, you risk losing them. Long explanations can’t be communicated to the public anyway. Avoid jargon. Don’t pile documents on them, or set them reading assignments. They’ll simply decide your story is too much work.

Describe what the corrupt officials have done. There’s no need for name-calling. Andrew Hooley advises

Always be impartial, emotionally detached in interviews as emotional comments often come across as “this person is obsessed” and discredit you. One of the fastest ways to shut down a whistleblower is to attack their personal interests, so always refer to the issue at the centre rather than “me.”

Don’t exaggerate or hide anything; make sure the journalist knows all relevant information. Don’t get sidetracked by themes not relevant to the story, such as politics or chit-chat. Don’t harp on or repeat themes the journalist shows no interest in; they will see you as a time-waster.

Investigative journalists will initially talk to you “off the record” to rapidly cover the entire subject without you needing to “lawyer” every sentence. Before the story runs they will ask you for quotes. Beware of disreputable journalists who encourage you to talk “off the record,” then quote you anyway.

Whistleblower Dr. Kim Sawyer advises “Try to ‘control’ the story as much as possible, and that includes the headline. The headline and first two paragraphs are key.”

Anticipate the likely response to the allegations and prep the journalist

beforehand. When the story is published take the day off to monitor it and rebut counterclaims in real-time. Use Twitter.

A journalist who has promised to investigate your story will ask for exclusivity. Give it, but beware it may encourage them to sit on a story in the hope it writes itself. The false reassurance of imminent publication can lure a whistleblower to put in more work and expose themselves to more danger to get the story over the line. The best guide is, if the journalist isn’t asking questions, they’re not working on it. Put the hard word on them, and if you don’t hear back (or if you do but nothing still happens), look elsewhere.

Some journalists, despite having evidence, will sit on stories indefinitely. There is no point pushing a reluctant journalist to do a story. Look elsewhere.

Anonymity

Although you’ve done nothing wrong, the reality is if you are publicly identified you will be harmed. Blow the whistle anonymously, as should the sources backing your story. However, journalists prefer to name their sources, so you must explain to them your reasons for anonymity. Reputable journalists will protect your identify. Andrew Hooley warns “Disreputable journalists will not, since they never expect to contact you again after the initial story has run.” Unfortunately you might still be exposed by an accidental leak or because it’s obvious from the story who you are.

Other avenues

Often you will find still no journalist will cover your story. What then?

While a story carried by a major newspaper will be seen by more people, smaller publications read by officials’ peers can be more effective: Andrew Hooley said “Getting our story printed in *Nature* magazine created far more of a reaction from CSIRO than even material published in the *Canberra Times* or *Sydney Morning Herald*.” Likewise Crikey is reportedly the most widely read publication in Parliament House. My own article in Crikey elicited a response from an attorney-general who had until then ignored me.

Wendy Bacon says:

If you can't find an experienced journalist, look for a highly motivated final year student or recent graduate who can arrange mentoring through their university. Universities do some very good investigative journalism, but you need access to experience.

Consider writing your own story (as Allan Kessing did for Crikey) or your own opinion piece (as I did for Crikey). The most important skill here is to write efficiently; take that 12-page letter and reduce it to 800 words. Write tightly and don't repeat anything. The shorter something is, the more people will see and read it. Watch the News Agenda for openings.

Consider the independent media, but choose a publication which does investigative reporting, not just political or social commentary.

Consider publishing on your own website or blog. These are never as popular as media web sites, but they attract others whose stories may lead to media coverage. This strategy has worked very well for Victims of CSIRO whose website has had 50,000 unique visits and united one hundred victims.



Read up on defamation law. Be warned that Ozloop, Victims of CSIRO and Victims of DSTO have all found that departments regularly scan their websites.



Sending private letters of complaint to officials is useful because it documents they knew of and permitted corruption, but without publicity they will ignore you. US Supreme Court Justice Louis Brandeis said sunlight is the best disinfectant. Use widely distributed public open letters cast their deeds into full view. Find other interested parties on Google and copy them on your letters.

The limits of your relationship

Journalists can publish your story, but they can't protect you from ongoing harm, advocate for you or give advice.

Wendy Bacon says "Whistleblowers need good legal and non-legal community support more than they need journalists. They need people to support and advise them even through the ordeal of trying to deal with the media."

Unfortunately that leaves nobody. Whistleblowers Australia is poorly resourced, and very few lawyers give whistleblowers advice pro bono. To get specific advice the whistleblower must pay a lawyer \$230–\$500 per hour to read all their material. (Something that may change this are US-style *False Claims* laws which give lawyers a financial incentive to help whistleblowers.)

Journalist Michael West warns "Lawyers are never better partners unless pro bono. They tell the client not to contact media because media can resolve the thing more efficiently, but lawyers' business model is to ensure a protracted dispute." A lawyer warned: "The only people who win out of these things are the lawyers."

Dr. Kim Sawyer warns:

Consider the risks. Approaching a journalist is risky. Be prepared for the negative perceptions of an article. Most readers do not identify with the issue, only the scandal. Most journalists do not understand corruption, the long-term effects or the correlation across the various types of corruption. They are not interested in systemic issues, only the short-term story.

Conclusion

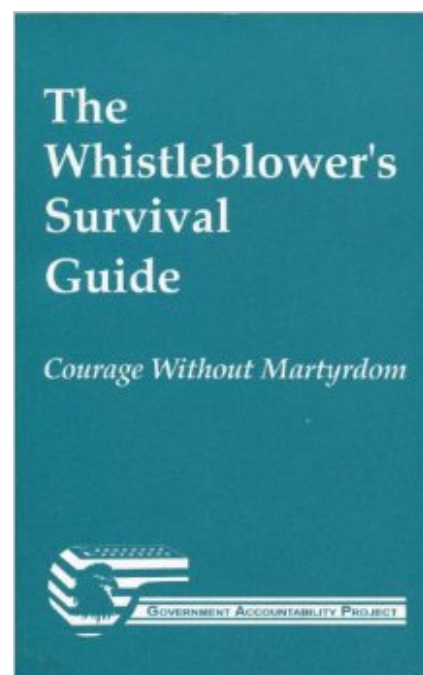
Only deal with experienced investigative journalists with a demonstrable track record. Write up your story in

400 words or less. Don't waste a journalist's time. Understand most stories are rejected, and that even if a story is published the abuse and the problem will most likely continue.

Thanks to all those who contributed to this article, with special thanks to Andrew Hooley and Wendy Bacon.

Recommended reading

Courage without martyrdom: A survival guide for whistleblowers by Tom Devine. This is a US book, but pages 84–94 contain good general information about working with the media. Available for free download via http://fairwhistleblower.ca/books/book_s.html



More information

A version of this article is available online, with over 100 footnotes containing sources and additional comment.

See <http://www.bmartin.cc/dissent/documents/Jones13.html>

