

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

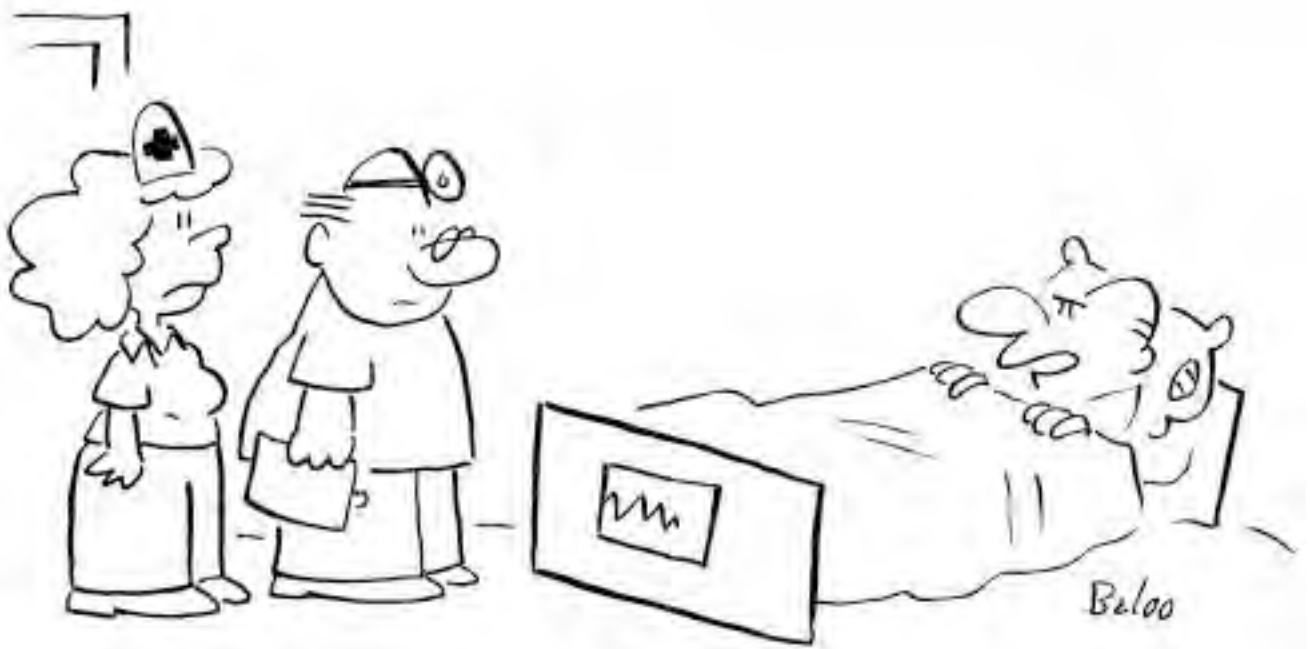
The



Whistle

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"As part of my treatment, I need a nurse with a whistle."

O'Farrell steps in for whistleblower

Britt Smith and Adam Bennett
Australian Associated Press
3 August 2011

THE whistleblower in the Milton Orkopoulos child sex case won't have to pay the state's legal costs after NSW Premier Barry O'Farrell stepped in to save the woman he calls a "hero."

Mr O'Farrell announced the bailout for Gillian Sneddon hours after a NSW Supreme Court judge ruled against her in the costs decision on Wednesday.

The premier said Ms Sneddon, who believes the bill could be as much as \$175,000, should not be financially punished for her "courageous" act.

Justice Derek Price's order meant Ms Sneddon stood to lose more than a third of her damages payout from her case against Orkopoulos, who has been jailed, and her employer, the Speaker of the NSW Legislative Assembly.

In June she was awarded \$438,613 after Justice Price accepted she suffered psychiatric injury because the former Labor politician had bullied and harassed her.

But the 54-year-old, who worked in the MP's Swansea electorate, lost her bid against the state — also a defendant in the legal battle — which then pursued her for costs.



Gillian Sneddon

She argued she shouldn't have to pay up because of the "unusual circumstances" of the case and that doing so would effectively deny her much of her compensation.

In rejecting that argument, the judge said it was the plaintiff's decision to embark upon litigation with the Speaker and the state as defendants.

"I conclude that the justice of the case requires that the state, the successful party, be entitled to its costs," he said.

Ms Sneddon told the media she was facing the prospect of severe financial hardship because of the decision.

"It was supposed to be compensation. How does that compensate what I have gone through, that I could be on medication for life," she told Fairfax Radio Network.

Then came the surprise twist. Mr O'Farrell announced just before 3pm to parliament that the state would pick up the bill.

"The state government will help Gillian Sneddon cover her legal liability to the state," he said.

"I don't see why she should have to suffer any more financial hardship as a result of acting in a decent and courageous way.

"She did not commit any crime, she did not do anything that was wrong, and nor should she have to be financially punished."

In 2008, Orkopoulos, the former Aboriginal affairs minister, was jailed for at least nine years for child sex and drugs offences.

Justice Price accepted the MP made inappropriate and offensive comments to Ms Sneddon, spoke to her aggressively, mocked her and yelled at her in front of a constituent, and bypassed her by asking another staffer to perform tasks.

She was also unable to enter the office after the locks were changed at the request of Orkopoulos with the agreement of the Speaker's office.

Ms Sneddon said the behaviour continued for about a year after reporting an October 2005 phone call, in which a man said he had been sexually abused by Orkopoulos since he was 15.

Top court backs whistleblowers

Alexander Bratersky
Moscow Times, 1 July 2011

The Constitutional Court on Thursday ruled that state employees cannot be punished for engaging in whistleblowing activities against their superiors. The court based its ruling on the case of two state employees, a police officer and tax inspector, who both were fired for criticizing their bosses.

"A state employee might express his opinion (based on real facts) if it concerns public interests and if it is not motivated by an intent to defame or pursue personal goals," said the ruling published on the court website.

The decision was made in favor of Alexei Mukomolin, a police officer from Tolyatti in the Samara region who criticized his superiors in a video statement posted online in 2009. Soon after, Mukomolin received a warning and, after he staged a picket in protest, was fired from the police force. The other plaintiff, Lyubov Koratyeva, a tax inspector from Moscow, was fired after questioning his superiors' travel expenses during an interview on Stolitsa television.

Dmitry Medvedev has made the fight against corruption a hallmark of his presidency, and anti-corruption experts said the court ruling marked a key step in the right direction. "The fight against corruption would be impossible without this decision being made," said Kirill Kabanov, head of the nongovernmental National Anti-Corruption Committee. But Kabanov, a member of the presidential commission on human rights, said the court ruling raises further questions because federal law doesn't define "public interest." He said it would be important to include the definition in the law.

The court ruling comes after courts have ruled against the authorities in several high-profile defamation cases. "I see that there is a growing tendency that courts rule not in favor of authorities, and this is a positive sign," Ivan Starikov, a former deputy economic minister and now opposition leader, told the *Moscow Times*. Starikov said

he was specifically referring to the case of Kommersant reporter Oleg Kashin, who was acquitted in June of defamation in a lawsuit filed by Vasily Yakemenko, head of the Federal Agency for Youth Affairs and a founder of the pro-Kremlin Nashi youth group. Kashin had linked Yakemenko to an attack that left him in a coma last fall.

In another example, Memorial human rights chief Oleg Orlov achieved a similar victory in June when a court cleared him of slandering Chechen leader Ramzan Kadyrov, whom he had linked to the 2009 killing of rights worker Natalya Estemirova.

The strange silencing of liberal America

Obama's greatest achievement is having seduced, co-opted and silenced much of liberal opinion in the US.

John Pilger
New Statesman, 7 July 2011

How does political censorship work in liberal societies? When my film *Year Zero: the Silent Death of Cambodia* was banned in the United States in 1980, the broadcaster PBS cut all contact. Negotiations were ended abruptly; phone calls were not returned. Something had happened. But what? *Year Zero* had already alerted much of the world to Pol Pot's horrors, but it also investigated the critical role of the Nixon administration in the tyrant's rise to power and the devastation of Cambodia.

Six months later, a PBS official told me: "This wasn't censorship. We're into difficult political days in Washington. Your film would have given us problems with the Reagan administration. Sorry."

In Britain, the long war in Northern Ireland spawned a similar, deniable censorship. The journalist Liz Curtis compiled a list of more than 50 television films that were never shown or indefinitely delayed. The word "ban" was rarely used, and those responsible would invariably insist they believed in free speech.

The Lannan Foundation in Santa Fe, New Mexico, believes in free speech. The foundation's website says it is

"dedicated to cultural freedom, diversity and creativity." Authors, filmmakers and poets make their way to a sanctum of liberalism bankrolled by the billionaire Patrick Lannan in the tradition of Rockefeller and Ford.

The foundation also awards "grants" to America's liberal media, such as Free Speech TV, the Foundation for National Progress (publisher of the magazine *Mother Jones*), the Nation Institute and the TV and radio programme *Democracy Now!*. In Britain, it has been a supporter of the Martha Gellhorn Prize for Journalism, of which I am one of the judges. In 2008, Patrick Lannan backed Barack Obama's presidential campaign. According to the *Santa Fe New Mexican*, he is "devoted" to Obama.



US President Barack Obama speaks in front of a screen showing his Twitter message at the start of a "Twitter Town Hall," 6 July 2011.

Photograph: Getty Images

World of not-knowing

On 15 June, I was due in Santa Fe, having been invited to share a platform with the distinguished American journalist David Barsamian. The foundation was also to host the US premiere of my new film, *The War You Don't See*, which investigates the false image-making of warmakers, especially Obama.

I was about to leave for Santa Fe when I received an email from the Lannan Foundation official organising my visit. The tone was incredulous. "Something has come up," she wrote. Patrick Lannan had called her and ordered all my events to be cancelled. "I have no idea what this is all about," she wrote.

Baffled, I asked that the premiere of my film be allowed to go ahead, as the US distribution largely depended on it. She repeated that "all" my events were cancelled, "and this includes the screening of your film." On the Lannan Foundation website, "can-

celled" appeared across a picture of me. There was no explanation. None of my phone calls was returned, nor subsequent emails answered. A Kafka world of not-knowing descended.

The silence lasted a week until, under pressure from local media, the foundation put out a terse statement that too few tickets had been sold to make my visit "viable," and that "the Foundation regrets that the reason for the cancellation was not explained to Mr Pilger or to the public at the time the decision was made." Doubts were cast by a robust editorial in the *Santa Fe New Mexican*. The paper, which has long played a prominent role in promoting Lannan Foundation events, disclosed that my visit had been cancelled before the main advertising and previews were published. A full-page interview with me had to be pulled hurriedly. "Pilger and Barsamian could have expected closer to a packed 820-seat Lensic [arts centre]."

The manager of The Screen, the Santa Fe cinema that had been rented for the premiere, was called late at night and told to kill all his online promotion for my film. He was given no explanation, but took it on himself to reschedule the film for 23 June. It was a sell-out, with many people turned away. The idea that there was no public interest was demonstrably not true.

Symptom of suppression

Theories? There are many, but nothing is proven. For me, it is all reminiscent of long shadows cast during the cold war. "Something is going to surface," said Barsamian. "They can't keep the lid on this."

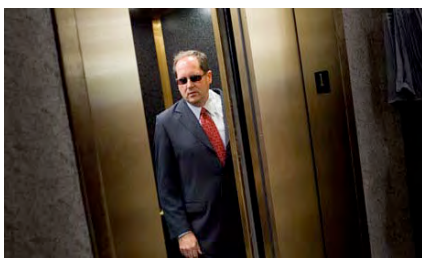
My 15 June talk was to have been about the collusion of American liberalism in a permanent state of war and in the demise of cherished freedoms, such as the right to call governments to account. In the US, as in Britain, serious dissent — free speech — has been substantially criminalised. Obama the black liberal, the PC exemplar, the marketing dream, is as much a warmonger as George W Bush. His score is six wars. Never in US presidential history has the White House prosecuted so many whistleblowers, yet this truth-telling, this exercise of true citizenship, is at the heart of America's constitutional First Amendment.

Obama's greatest achievement is having seduced, co-opted and silenced much of liberal opinion in the US, including the anti-war movement.

The reaction to the cancellation has been illuminating. The brave, such as the great whistleblower Daniel Ellsberg, were appalled and said so. Similarly, many ordinary Americans called in to radio stations and have written to me, recognising a symptom of far greater suppression. But some exalted liberal voices have been affronted that I dared whisper the word censorship about such a beacon of "cultural freedom." The embarrassment of those who wish to point both ways is palpable. Others have pulled down the shutters and said nothing. Given their patron's ruthless show of power, it is understandable. For them, the Russian dissident poet Yevgeny Yevtushenko once wrote: "When truth is replaced by silence, the silence is a lie."

**A life unravelled ...
whistleblower who
incurred wrath of
the Murdoch empire
Relentless legal pursuit of
ex-News Corp employee
likened to "Rambo tactics"**

Ed Pilkington
guardian.co.uk, 17 August 2011



Robert Emmel
Photograph: Timothy Fadek/Polaris

FIVE years ago Robert Emmel was enjoying the American dream. He lived in a detached house in a suburb of Atlanta, Georgia, drove a BMW, and earned \$140,000 a year as an accounts director in a highly successful advertising company called News America Marketing.

Today, Emmel is described by his lawyers as destitute. Jobless and in

debt, he was discharged from bankruptcy last year. He does occasional consultancy work that last month brought in \$500, and this month, court documents show, will probably produce nothing. His wife's earnings raise monthly household income to about \$3,000 — half their outgoings.

This is a cautionary tale about what can happen to someone who dares to become a corporate whistleblower. Or, more specifically, someone who incurs the wrath of News Corporation, the media empire owned by Rupert Murdoch, of which News America forms a part.

Emmel's lawyer, Philip Hilder, has had a ringside seat at the gradual unravelling of his client's life. A former federal prosecutor based in Houston, Texas, Hilder is well versed in whistleblower cases having represented Sherron Watkins, who helped uncover the Enron scandal. Hilder said: "News America has engaged in Rambo litigation tactics. They have a scorched earth policy, and it's taken a huge toll on him."

News Corp has devoted the efforts of up to 29 lawyers to pursuing Emmel personally, at a cost estimated at more than \$2m. Emmel, by contrast, has relied on two lawyers, Hilder and Marc Garber in Atlanta, working for no pay since January 2009.

Attention has been focused on News Corporation's activities in the UK, where the News of the World phone-hacking scandal has led to the arrest of 10 people associated with the company. In the US, oversight of News Corp is gathering pace with the department of justice and the FBI looking into the company, while senators are considering launching committee hearings into News Corp practices.

One incident that US investigators are exploring is the hacking of a website run by one of News America's rivals, an instore advertising business called Floorgraphics. The firm discovered that its password-protected site had been breached from an IP address at News America's offices in Connecticut. News America has condemned the breach as a "violation of the standards of our company" but says it does not know how it happened.

Emmel was one of the main witnesses for Floorgraphics at a subse-

quent trial against his old company. He worked for News America for seven years from 1999 to 2006, turning whistleblower in his final year there. The company is the leading US provider of in-store advertising services, helping to bring products from firms such as Coca-Cola, Kraft and Nabisco to the attention of supermarket shoppers. Headed by Paul Carlucci, who now publishes Murdoch's tabloid the New York Post, it enjoys annual revenues of more than \$1bn and has a 90% stranglehold on the market. News America also has a record of legal disputes with its commercial rivals, three of whom have launched lawsuits against it in recent years accusing the firm of using unlawful practices.

All three lawsuits — including the Floorgraphics one and cases initiated by Valassis and Insignia — were eventually settled, but not before News America agreed to pay an astounding \$655m to end the disputes. Emmel acted as a whistleblower in all three cases. He gave two days of evidence in the Floorgraphics trial after which News America rapidly settled, and was also named in the Valassis and Insignia cases.



Rupert Murdoch

By 2006 Emmel said he was increasingly concerned about what he alleged were improper practices on the part of his employers. He alleged that News America was engaging in "criminal conduct against competitors" and using

“deceptive and illegal business practices” to defraud its retailer customers out of money owed. He claimed he had “substantial oral and documentary evidence” to support his allegation that the company had defrauded its own customers, used anti-competitive techniques against rival companies, and fraudulently inflated its reported earnings unbeknown to its shareholders.

News America denies the allegations. In a statement, it said: “There have been three very public lawsuits about these matters and at no time during any of these legal proceedings was any evidence produced to support Mr Emmel’s claims.”

For a year before he was sacked in November 2006, Emmel began compiling documentary evidence that he suggested backed up the allegations, and posted it to public bodies and individuals including the US securities and exchange commission, two senators, two Senate committees and the New York attorney general.

It is not known what happened to Emmel’s allegations within the regulatory bodies he approached. He posted one set of 55 pages of documents on 20 December 2006, shortly after he had been fired and a day before he signed a non-disclosure agreement with News America.

That set of documents went to Nicholas Podsiadly, an official in Washington then working as an investigative counsel at the Senate finance committee. At one point, court documents show, Podsiadly said the committee was considering referring the allegations to the justice department and the federal trade commission.

Podsiadly did not reply to a request for information. A spokeswoman for the finance committee said nothing would be done with any documents sent by Emmel until the litigation over them had ended.

Emmel today remains under a court-imposed injunction that forbids him from disclosing anything from these documents. “I cannot comment,” he said.

News America learned of Emmel’s whistleblowing activities after it had sacked him in a dispute over his timekeeping. It then unleashed its legal armoury against him. In April 2007 it filed a lawsuit accusing him of six violations relating to his disclosure of

confidential information, pressing its case with more than 300 pleadings to the Georgia courts. The company said Emmel refused to return “tens of thousands of stolen documents” and added: “Initiating legal action was News America Marketing’s only recourse to protect the company’s private information.”

Despite the tenacity with which it has pursued Emmel, News America has had very little satisfaction through the courts. In March 2009 the district court in Georgia threw out all of its claims against him, bar one — a claim of breach of contract relating to his posting of the 55 pages of documents the day before he signed a non-disclosure agreement. Even that count, however, has been overturned by the US appeal court, which ruled in Emmel’s favour in June, although the court kept the non-disclosure injunction in place noting that a significant proportion of Emmel’s legal fees had been paid by News America’s competitors.

In 2009 the company made clear that it intended to go to trial to ask for \$425,000 from Emmel to cover legal costs incurred in the breach of contract element of the lawsuit, as it was entitled to do though the sum was way beyond his ability to pay. Emmel’s lawyers say the move forced him into bankruptcy. News America then insisted on a deposition to extract financial information out of Emmel, a move that is allowable under the law but that astonished Emmel’s bankruptcy lawyer, Danny Coleman, because he says there had been no suggestion from the authorities that anything about the bankruptcy was out of order. “In my view, that was an abuse of the legal system,” he said. “They took the law to its extreme and they used it to harass my client and prolong his agony.”

After months of work on the deposition, nothing irregular was found. Hilder said he was struck by an irony in the Emmel case. “Here is a company, News Corp, that is in the business of disseminating information to the public, and yet its subsidiary does everything in its power to silence him.”

News America denies engaging in inappropriate litigation and insists that it only wants to protect commercially confidential information, adding that

Emmel’s lawyers were “once again attempting to distort the facts in this case.” The company added it had “vigorously defended itself against Mr Emmel’s charges against the company, all of which were dismissed by the court.” It says the injunction does not prevent him from co-operating with any formal investigation into News America.

The idea that Emmel had been driven into destitution was “preposterous”, it said, “given his legal fees — to the tune of \$750,000 — were paid by two competitors to News America.” Emmel’s lawyers do not dispute that until 2009 he received legal fees from Floorgraphics and Insignia, but say that was consistent with his role as a whistleblower against his old company.

While legal proceedings continue, the injunction preventing Emmel from approaching corporate regulators remains in place. But the appeal court in June made one important proviso. Nothing in the injunction, it ruled, “prevents Emmel from complying with grand jury or court-issued subpoenas or from co-operating with law enforcement authorities in any formal investigations of News America.”



Articles

The Act that wasn't there

Kim Sawyer

Yesterday I do declare,
I looked for an Act that wasn't there,
It wasn't there again today,
They wish, they wish, it would go
away.

When we testified in '93,
We all had hopes from a Senate
Committee,
There were 39 recommendations large
and small,
But it was just an act, an act, there was
no Act at all.

When we testified in '95,
Another committee brought our hopes
alive,
The committee recommended restitu-
tion for all,
But it was just an act, an act, there was
no Act at all.

Elections come and elections go,
It's all part of the circular flow,
At every election, a promise and an
Act to follow,
But it is just an act, an act, it is all for
show.

Whistleblowers come, but mostly they
go,
They all defend the right to know,
Toomer, Skrijel, Lombardo and van de
Wiel,
They did wait, and wait, yet none of
them did resile.

A new government with renewed
impetus,
We put our faith in a man called
Dreyfus,
We whistled again and again they did
recommend,
But it was just an act, an act, there is
no end.

In '93, I do declare,
I looked for an Act that wasn't there,
It wasn't there again today,
They wish it, like whistleblowers,
would just go away.



Kim Sawyer

BOOK REVIEW

Challenging sex trafficking

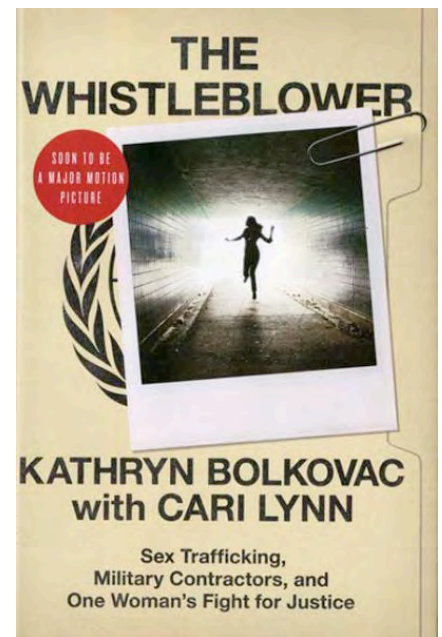
Kathryn Bolkovac with Cari Lynn, *The whistleblower: sex trafficking, military contractors, and one woman's fight for justice* (Palgrave Macmillan, 2011)

Reviewed by Emma Dalton

IN 1998, Kathryn Bolkovac decided to build on her experience as a police officer in the US and go to Bosnia to help in the US's democratic reconstruction of the nation. She applied for a position she saw advertised on a police station noticeboard in Nebraska and soon found herself employed by DynCorp, a private military contractor.

DynCorp was part of the International Police Task Force (IPTF) mandated by the UN Security Council as part of the Dayton Agreement. The Dayton Agreement, signed in December 1995, signalled the end of the three and half year war in the Republic of Yugoslavia. The IPTF comprised members of national police forces from UN member states. The US does not have a national police force, so the US contingent was made up of private contractors. DynCorp was one of these private contractors, funded by the US State Department.

Although the advertisement that Kathy answered stated that applicants needed at least eight years of experience in the police force, it soon became clear to Kathy that this was a very loose requirement. Many of DynCorp staff were young, inexperienced and had interests in serving in Bosnia that were less than savoury. At the innocent end of the scale were those purely interested in earning a lot of money in exchange for doing a minimal amount of work. At the worst end of the scale were those who are the centre of this book — men who raped trafficked women and girls and got away scot-free. The reason this was allowed to take place was that DynCorp, like all private contractors, was operating under a limbo-like jurisdiction. They did not answer to American law, nor were they under Bosnian legal jurisdiction.



Not long after arriving at her post in Sarajevo, Kathy became aware of corruption within the local police force and the Bosnian government. She attempted to inform her supervisors but was told to back off and avoid getting too involved. When she failed to follow those orders, she was moved to a different post. At the same time, Madeleine Rees from the UN recognised her solid work and invited her to head a UN program that tackled

gender-based violence in Bosnia. Kathy accepted this position and started work, still officially employed by DynCorp, as a civilian UN gender officer. This position gradually morphed into a position that dealt with sex trafficking. This was an investigative position and Kathy uncovered some ugly truths about not only her DynCorp colleagues, but about those in the UN as well. She criticised the UN for their lack of action regarding the trafficking of young women from poorer countries into Bosnia and her criticism was not accepted kindly. Ultimately Kathy was dismissed by DynCorp in April 2001 on bogus claims of falsified timesheets. Kathy was successful in suing DynCorp, with the help of Madeleine Rees, on the grounds of protected disclosure, in 2002.



Kathryn Bolkovac

In her book *The Whistleblower*, Kathy tells the story and exposes the issue in a hard-hitting and honest manner. The problem revealed in the book and the actions of the men involved are difficult to come to terms with. Regardless of the apparent lack of jurisdiction that DynCorp operated under, the actions of the men involved are extremely difficult to comprehend. The commodification of women seems to be regarded as the norm by many of the men in this book and I found myself shaking my head in horror at some of the attitudes of Kathy's colleagues. One particular conversation with a young colleague she called "Carl" is

hard to forget. After lamenting to Kathy that his girlfriend had run away, "Carl" explained without a hint of guilt or even awareness that his actions were wrong, that he had "bought" her from a bar owner and had "kept her" in his apartment. His eventual punishment was mere repatriation — no prosecution, no fine, no counselling. As Kathy noted, his personal record would remain unblemished.

Kathy's sense of humour in telling such a horrible story and the accessibility of the book made this a very compelling read. I sort of fell in love with Kathy — especially when she kicked down a door Magnum-PI-style. Her determination and extremely strong sense of ethics and justice make her story very inspiring on an individual level. Unfortunately there has been no happy ending either for Kathy herself or, even more significantly, for women and girls who are trafficked from poor countries to sexually service men. I suppose the message here is a familiar one — whistleblowing is not for the faint-hearted, and perhaps not even worth it. In the face of powerful and dominant forces that have only concern for themselves and no concern for justice or ethics, few whistleblowers stand a chance of coming through unscathed, let alone actually making a difference. As Kathy notes, only three days after DynCorp dropped its appeal against her court action, it was awarded a \$22 million contract by the US State Department to police Iraq. Furthermore, the men who tried so hard to keep Kathy muzzled maintained their high-level positions and some were even promoted.

The Whistleblower was made into a movie this year, directed by Larisa Kondracki, and featuring Catherine Weis as Kathy Bolkovac. Some elements of Kathy's background have been changed for the movie (for example, Kathy has three children, but in the movie she has only one) but the story is apparently told relatively truthfully. Importantly, Kathy herself liked and approved of the movie. I will definitely be going out to watch it when it comes to Australia.

Emma Dalton is researching women in Japanese politics.



Nurses in crisis

Christine Cameron

HINDSIGHT is a wonderful thing. For those of us who unknowingly were thrown into the fire pit of whistleblowing, we certainly can understand our situation and see it more clearly than when we began.

I was a registered nurse with a Masters in Emergency Nursing. I absolutely loved my job; there was no doubt about that. I also took my responsibility as a nurse very seriously and that is where I fell foul of the system. Nursing has many facets but, ultimately, the nurse is an advocate for the patient. This is the nurse's first responsibility. All other aspects, requirements and training work toward that fact.

Unfortunately, in our current health system, that responsibility appears to have been lost. Financial pressures on health organisations force nurses into a precarious situation. Either deal with what you can and what you have, or suffer for speaking out. Add to this the family financial pressures of keeping your job, and the almighty dollar reigns supreme. Patient advocacy gets lost, nurses just do what they can, and the patients suffer to varying degrees.

I faced these pressures in every area of the hospitals in which I worked. Unsafe patient loads were placed on us and patients suffered. There was no

avenue for help. Unions provided forms to fill in to complain about the situations we faced, but these brought no help when we needed it.

I lodged numerous complaints through the PRIME Clinical Incidents system. We are talking about basic human rights in a lot of the cases. However, there was never a response from my nurse unit managers on any of them. In the absence of any such response, I was left hoping something was being done. But I never saw help, and patients continued to suffer.

After an extended period of complaints (including some very serious ones), I was “obtaining training” for an application to a higher position. I had previously failed the application but was given the opportunity to obtain experience in the higher position before the next application. During this period I continued to request feedback from my previous application so I could improve on the next. This requested assistance was never given to me. When the time came to reapply, I was left with no choice but to submit the same application, since I had no knowledge of how I could improve. Then I waited expectantly for an interview.

Late one morning a co-worker asked me how my interview had gone, since she had hers that morning. I had missed out, and only found out when a co-worker had informed me. After she informed the manager of this blunder, I was approached by the manager in the crowded department and was told I was not successful. I was unsuccessful because my selection criteria was not good enough ... something I should have been informed of had I been given feedback as requested. When this oversight was identified to the manager and the director of nursing for the hospital, they all agreed I should go on my holidays and they’d sort it out on my return. However, when I returned I found that the positions had still been awarded. That was the beginning of the end for my health.

I couldn’t cope at work and eventually applied to WorkCover for stress leave. At that time I still had not really recognised what was happening. I presumed that management would agree with my statement of the job mismanagement, and my stress leave would be approved. I hoped that time

off would help me get better. Dealing with my complaint and resultant health problems would have been that simple at that time.

The million-dollar question is: *Why do organisations hide the truth?* Especially when people’s lives are at stake? Things would be so much easier if the truth were told.

I remember hearing that WorkCover rejected my claim because management had “acted reasonably” and “supported me.” Until I received the statements given by management, I questioned my own sanity. Could I truly not remember what happened?



Thankfully I was in the habit of saving e-mails and other documents, and they were what saved me and my sanity. I was able to easily prove my claims, and the original WorkCover decision was overturned by Q-Comp and my WorkCover claim was approved.

However, things didn’t change at the hospital, and no investigations were undertaken into my claims. Eight months later I went to the Crime and Misconduct Commission (CMC) with my allegations. It was ample time for the hospital to undertake investigations, but they instead chose to hire the Queensland Health lawyers to argue against my WorkCover claim.

Perhaps the greatest injustice occurred when the CMC sent the complaints back to Queensland Health to be investigated. The Ethical Standards Unit (ESU) was appointed to investigate. The Director General met with my husband and me, and appointed the district health director to check with me once a week and support me through the process.

After seven different investigations and almost two years, there were Queensland-wide system changes within Queensland Health, including immediate additional funding of \$250,000 to the emergency department and a further increase of \$5.4 million

to its budget. The emergency department had been the focus of my complaints.

When the final ESU investigation was due out, I was given a preliminary report. It was rife with what I considered to be mistakes, twisted statements and downright untruths. After proving the ESU’s preliminary report was erroneous, biased and grossly inaccurate, it was then revealed that the district health director was to be the decision maker, and then (laughably) claimed that the investigation had never been undertaken by the ESU at all.

Requests were made to the CMC for intervention at this “final stage” of the investigations but these were initially rejected. I decided to go public with a 125-page rebuttal of the investigation (available through Queensland Parliament website, tabled documents number 1485, 25 November 2009). Even then, it was months before the Chairperson of the CMC agreed to investigate my allegations into the “investigations” that took place. You won’t be surprised to know that the CMC supported the findings of Queensland Health, despite the fact that the ESU totally and completely ignored my documented evidence, choosing repeatedly to take the word of management in various serious matters.

Further, the CMC Chairperson made the following statement: “The evidence does not support any finding of official misconduct or other conduct warranting consideration of disciplinary action on the part of any of the Queensland Health members of staff against whom Mrs Cameron has made a complaint.” My documented evidence was disregarded without exception, but this was considered more than adequate by the CMC, even though they had been repeatedly made aware of the evidence.

At the initial CMC meeting in January 2009, my complaints were taken along with those of two other staff members. We were all subsequently given whistleblower status.

Once it came time for WorkCover “compensation” payments, we were all given a typically low initial notice of assessment figure. I’d be embarrassed to offer \$24,000 for a permanent disability payment, but obviously

WorkCover was not. All three of us proceeded with legal action. After each of their case conferences, the other two were offered compensation payments from WorkCover, which they accepted. It is worth noting that my two colleagues did not speak out during the process of their claims, whereas I did.

At my first and only case conference regarding my compensation claim, the lawyer for WorkCover began by making comments about my speaking out in the past. He said in effect, "I want to begin this meeting by reminding your client [me] that this meeting is confidential since she has a website she tends to put things on ..." During my case conference, other comments were made regarding the documents I had produced, which sought to expose continued problems within the Queensland Health system.

At that meeting, I was given a compensation offer of "nil dollars." My injury had been rated significantly higher than the other two whistleblowers. It is my understanding that they were subsequently given significant compensation payments, certainly not "nil dollars."

There is whistleblower legislation to protect whistleblowers from this type of reprisal, but finding someone to enforce the legislation is another matter. The Queensland Ombudsman looked at my request to investigate and suggested I take it to the CMC — which I did. However, having learned not to expect justice through this process, I was not surprised when the CMC decided not to become involved.

So, when asked if I'd do it all again, I have to say yes. How can you watch people suffer and say nothing? I could not. Unfortunately, many nurses did, and continue to do so. Some even become aggressive toward those who do speak out and take a stand. Perhaps it is time they should reconsider their chosen profession. Ignoring or hiding the chronic sickness of the health system will only protect it and prolong the damage.

When I look back on my initial application to obtain stress leave, I realise that I was so naïve about what lay ahead. Everything has been a shock along the way. I've been overwhelmed that people can be so abused yet authoritative bodies turn a blind eye. Indeed, it seems to be the task of most

managers and investigative bodies alike to do everything in their power to hide allegations of abuse or error.

The Human Rights Commission declined to look into the matters as they were not individual claims. Her Majesty the Queen stated that she was unable to intervene but would discuss the matter with the Governor General. The Governor General stated that she has no power to intervene. The Medical Board found the doctor who assaulted an 18-month-old child innocent since the mother had not complained, even though the nurse did. The hospital found foreign doctors acting in an abusive manner to be acceptable. The four jobs I was denied, the profession I lost, the health I no longer have, the extreme financial retaliation I have faced, and the patients who suffered are alone. Who will listen, or care enough to act?

I had hopes along the way that I would be able to make a difference for the better. I believe I have, but not as much as I hoped. However, my website continues to be accessed by Queensland Health computers during weekends and after-hours, so it is clear that there are those who need help. It tells me that nurses are at least reading through my site.

I would not do anything differently, and I am glad I had no idea of where this whole saga would lead. I might have run away instead of standing and fighting. My husband and my daughter have been my greatest support and without them I would not have survived thus far.

My story had to be told and be readily available for people to access. That is how my website <http://www.nursesin crisis.com/> came about. Stories of patient abuse and neglect are there. Sadly, even after the Patel saga in Bundaberg, the only thing learned by Queensland Health is how to better cover up the problems.

At times I feel that I have only caused a ripple but sometimes that is all it takes.

The best advice I can give is to keep *all* correspondence, keep voluminous records of events, and please, please, keep your emails. Print them, and please send them to your private computers at home. In the end, should you ever face the harrowing ordeal of trying to prove your case in the face of

an entire system that is devoted to covering up all evidence of mistakes and wrongdoing, your records will prove your only hope. Do not be so naïve as to believe that your managers, who in essence are only servants of their own tyrannical masters, will ever support you once you make a claim.

The words of a famous movie come to mind. Please allow me to paraphrase it with this thought. In 20 years time, will you be sorry you did not act this day, or will you be pleased with your choice? I am pleased with my choices, even though they have cost me dearly.

Christine Cameron is a former emergency nurse at Bundaberg Base Hospital.

BOOK REVIEW

Rogues and bureaucracies

James Dunbar, Prasuna Reddy and Stephen May, *Deadly Healthcare* (Australian Academic Press, 2011)

reviewed by Brian Martin



In Bundaberg Base Hospital, in a regional area of Queensland, there was difficulty in recruiting good doctors. Decisions on staffing were made through Queensland Health's hierarchical system based in Brisbane. In 2003, Jayant Patel became director of surgery. Totally self-confident, he was

ready to put in long hours, and especially eager to undertake surgery. Patel endeared himself to administrators: his many operations brought money to the hospital, helping to balance the budget.

[District Manager Peter] Leck, ever the responsible business manager, would later caution against moving too quickly on any complaints about Patel lest the hospital lose the financial benefits he brought it. (p. 26)

Toni Hoffman, nurse unit manager of the intensive care unit, saw the results of Patel's surgeries and was disturbed by his rude manner and apparently outdated knowledge. She reported her concerns, but nothing was done. She persisted, with the same response. "She again followed up the meeting with a written report. Again she heard nothing." (p. 27) Patel had too many friends in the right places. Hoffman continued to document problems and make reports, watching too many botched operations to remain complacent. She was a model whistleblower who, unlike most, had the satisfaction of complete vindication.

As is so common, her efforts took a long time to have any impact. Complaining to officials up the system didn't work. What broke the case open was publicity. Hoffman contacted Rob Messenger, her local member of state parliament, who raised concerns under the protection of parliamentary privilege. Journalists then pursued the story over many years.

Even after the story broke, Queensland Health officials tried to contain it.

Leck was communicating with a zonal manager about the release of Hoffman's letter to the public and told him that the minister had told everyone that leaking confidential information including patient information was unacceptable and that whilst he supported freedom of speech in terms of raising matters with MPs, he would not tolerate the leaking of such information. (87)

However, these regard actions were insufficient to contain the emerging scandal. It turned out that two US health systems had put restrictions on Patel performing certain surgical procedures. He lied on his application to Queensland Health and, due to lack of

scrutiny, the black marks on his track record slid through the vetting system. After being exposed, Patel went back to the US. It took years for his extradition, trial and appeals. He is now in prison.

The three authors of *Deadly Healthcare* provide a vivid picture using several perspectives. They delve into Patel's training in India and his appointments in US states, showing how a certain type of grandiose personality can win powerful allies despite poor performance. They examine Queensland Health's dysfunctional management systems. They look closely at how Patel was able to get into a position for which he was not qualified and where, against regulations, he had no supervisor, setting the scene for disastrous consequences for patients. They look at research and practice on building robust medical systems and at what can be done in Queensland and elsewhere to prevent abuses.



Dr Jayant Patel

Deadly Healthcare tells the story of Patel and Queensland Health in an accessible, informative fashion. The media most commonly portrayed Patel as a rogue doctor. That is accurate on its own, but is only a partial picture. Patel wreaked damage because he operated in a bureaucratic system in which high-level decision-making driven by financial considerations was largely divorced from on-the-ground health needs. The Queensland state government didn't provide enough funding for the health sector, and decisions about operations were often made for the wrong reasons.

The Patel saga can be interpreted as a symptom of a sick medical system. Toni Hoffman made a difference by

blowing the whistle on Patel, though it was a long struggle. The bigger problem is how to challenge such a system as a whole, to bring about beneficial change so that fewer cases like Patel ever arise. This suggests that whistleblowing needs to be supplemented by organisational activism. However, this will never be easy when even well-documented damage from a rogue surgeon is not enough to trigger change internally and publicity is the only thing that will make anyone take notice. Publicity was abhorred by Queensland Health.

Leck testified himself that they were required to make decisions according to a risk management matrix which rated significant statewide adverse publicity at the same level as loss of life. Loss of reputation of Queensland Health was equated with the loss of a patient's life. (87)

Based on examination of a number of rogue-doctor cases, the authors sum up some of the lessons and dilemmas.

An outstanding feature of the case histories of most rogue doctors is that early concerns were not investigated to the satisfaction of the whistleblowers. Consequently, whistleblowers are forced to go outside the system, using the media, public protest or political lobbying to have their concerns properly investigated. Patel's case is clear example of how such actions, while well-intended and indeed necessary, can erode confidence in an entire hospital, placing immense stress on staff, patients and families. This is not to blame the whistleblowers but to make the point that open, honest and timely investigation undertaken within an organisation avoids the potentially damaging aftermath — an aftermath which, paradoxically, can make people fearful of disclosing mistakes in the future. Unfortunately, many modern health organisations are renowned for their gap between rhetoric and reality. Some may even have a long-standing culture of concealment, blame and scapegoating. (110)

Whistleblowers
Still Living Dangerously 20 years on!
Whistleblowers Australia's National Conference
8.15am for 9am
Saturday 19th November 2011

Morning session

WikiLeaks, Whistleblowing & Democracy
Chris O'Mallon, PID Unit, NSW Ombudsman
David Shoebridge, MLC, NSW Greens
Dr Suelette Dreyfus, Research Fellow in Information
Technology, University of Melbourne
Belinda Hawkins, Senior Journalist, Australian Story,
ABC TV
Jim Richardson, Sydney Solidarity for Bradley Manning.

Afternoon session

How It Was: Debbie Locke, Greg Locke, Cynthia Kardell &
Brian Martin
How It Is: Gillian Sneddon, the Milton Orkopoulos
whistleblower
Dr Michael Cole, Westmead Hospital whistleblower
Dave Reid, ANSTO whistleblower
Like Janus: Through the children's eyes, song and dance.

AGM & workshops

8.15am for 9am Sunday 20 November 2011

Jane Longhurst: Surviving along with a whistleblower
Brian Martin: What do you say when a whistleblower calls?

Venue: Uniting Church Ministry, Conference Centre
Mason's Drive, North Parramatta, Sydney New South Wales.

Cost: \$65 per day (members \$50 or \$85 for 2 days)
\$20 extra for dinner Saturday night (optional)

Bookings: Ring or email Feliks (07) 5448 8218 or
feliksperera@yahoo.com

Payments: Mail **cheque** to Feliks at 1/5 Wayne Ave, Marcoola
Qld 4564, or

deposit to NAB Coolum Beach BSB 084 620

Account Number 69841 4626, or

pay by **credit card using PayPal:** Make payment to this
email address (i.e., wba@whistleblowers.org.au). To help
cover the fee charged by PayPal, please add a minimum of \$1
per person per day to the amount paid. (PayPal accounts are
free to set up.)

Low-cost accommodation: Book directly with and pay the
venue, above. Call 1300 138 125 or email
service@unitingvenues.org.

Whistleblowers Australia contacts

Postal address PO Box U129, Wollongong NSW 2500

New South Wales

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

Contact Cynthia Kardell, phone 02 9484 6895, fax 02 9481 4431, ckardell@iprimus.com.au

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Whistleblowers Australia conference

See previous page for details

Annual General Meeting

Whistleblowers Australia's AGM will be held at 9am Sunday 20 November at the Uniting Conference Centre, North Parramatta (Sydney). See previous page.

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 13 November. Nominations should be signed by two 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, feliksperera@yahoo.com