

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

The



Whistle

No. 79, July 2014

Newsletter of Whistleblowers Australia

The whistleblower

I can't allow the US
government to
destroy privacy
and basic liberties



the guardian

guardian.co.uk

Articles

Aphorisms

Kim Sawyer

The power of indifference

You are right, but they are in power.

I will support you, but in silence.

The firm is corrupt to the core, but what can one person do.

I will support you in private; and in public when appropriate.

You are right, but why don't you move on.

I will always be on your side, you know that.

You are correct; but speaking about it, what good will it do?

See no evil, hear no evil, and speak no evil.

I wish you well, but I don't want to get involved.

I'll keep an eye on it.

There are limitless ways to be indifferent. They are all different; and all indifferent.



Kim Sawyer

The bystander

The silence of one bystander is a powerful voice.

Their silence is more powerful than the silence of none.

The silence of two bystanders more powerful than one.

The silence of three bystanders more powerful than two.

The silence of four bystanders more powerful than three.

And in the limit, the silence of the bystanders converges to

... the voice of the wrongdoer.

If I had not blown the whistle

If I had not blown the whistle

- I would have got that job.
- I would think regulators regulated and judges judged.
- I would think cover-ups occurred over there, but not here.
- I would believe in natural fairness.
- I would have that friend.

And I wouldn't be talking to the lawyer, the regulator, the politician, the journalist and the whistleblower; or writing the brief and this article. But I did blow the whistle, so that

- I know how regulators regulate and judges judge.
- I know that cover-ups occur here, and not just over there.
- I understand natural unfairness.

And I know what a true friend is.

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

Forced psychiatric assessments

Cynthia Kardell

ONE question I find that comes up again and again is, "Can my employer force me to have a psychiatric assessment done by a doctor of their choice?" The answer is "Usually they can." Most employers have a right to get involved in your health if the amount of sick leave you've taken, whether paid or unpaid, is dragging on and on without any obvious end in sight, which is what often happens in whistleblowing cases.

You have to check the terms of your employer's procedures and policies to find out whether they can legitimately call into question your or your doctor's opinions about your health. It may be that they can't. But you also need to consider whether those same procedures and policies are open to being exploited by an inventive employer bent on getting you off the premises.

What you need to understand is that your employer will usually have their own version of why you went on sick leave. It's a version that often glosses over or even ignores the fact that you blew the whistle. Instead your employer's version will seize on some real or imagined issue of poor performance to explain away your anxiety and depression. This is because an employer is not liable for the anxiety and depression caused when you are cautioned to lift your game.

The employer's idea is to set up the circumstances where you can be seen to be angry, unreasonable and irrationally combative. The employer wants to be able to persuade a forensic psychiatrist and ultimately, their insurer (or a court) that their version of the events is to be preferred. If they manage to do that, they would not be legally liable for your anxiety and stress. If this is what you're up against, then you have a choice. You can fight them on (1) whether they have a right to force you to see a doctor of their choice or (2) whether their version of the events is correct. If you just fight them on their right to force you to see their doctor, they will have won the first round,

because in doing that you've allowed them to shift the goalposts away from the core issue: their wrongdoing.

Even if your employer's policies don't give them the right or opportunity to force you to have a forensic psychiatric assessment I think it is always wiser to accept their demand, after pointing out why the rules don't allow it. You can say this is just another reprisal and that you are only going along with it to avoid giving them something else to beat you about the head with. In doing this, you deny them the opportunity to shift the goalposts, and believe you me they won't be happy about that.

That is, the art of the game is to outdo them on the reasonableness stakes!



Cynthia Kardell

You might be thinking your employer's claim that everything can be put down to you having a mental illness is unjust, offensive and even threatening, because you never know where it might lead because mental illness still carries a certain stigma in our society. Who wouldn't be offended? I would be. But it's best to look beyond that and save it for another time, because if that's all they have got, you might be on surer ground than you think. I know it's tough, but think about it as if it is a chess match. Don't waste your moves. And don't let them off the hook. Do the very thing that they don't want you to do: keep

them focused on why you blew the whistle.

You see, an employer can usually rely on a whistleblower digging their heels in, so that they can sack you for failing to comply with what they would say is a reasonable direction. You cry foul, but by then it's too late. You're out the door. Maybe still on their insurer's claim list, but effectively you're no longer your employer's problem so they can ignore you, which is what they will do.

The lesson is clear. Object all you like, preferably in writing, but go along with it and see their doctor, because that way you're still their problem — they'll hate it — and you will have made sure that your whistleblowing story remains front and centre in any contest that arises out of the psychiatric assessment.

What I'm saying is don't play their game. Get them to play yours. Counter their every move to tempt you away from the main game. Save all their *in-your-face nastiness* and wrong moves up for another time: a time of your choosing when it will matter most.

Remember that their psychiatrist will be given their version of the events. So, what you do is supply your employer and their psychiatrist upfront with your version of the events, and including a copy of any key supporting documents (preferably their documents), so that the psychiatrist is put in a position where s/he can actually make a finding that this is an industrial dispute and until the dispute is resolved, s/he will not be in a position to provide a psychiatric opinion. If you succeed in this, you will have forced your employer to deal with the actual facts and not their preferred version of events. Check mate!

Get your own psychiatric report done as insurance. Ask your doctor to refer you to a shrink of your choosing. Supply him/her with the same information that you gave to your employer and your employer's doctor.

Behave the same way with both of the doctors, theirs and yours. Stay calm. Be conscientious in your account. Be conciliatory in accepting another's point of view, before explaining why it isn't borne out on the facts and point them to one of the documents. Be reasonableness personi-

fied. Take a support person if you need to.

If you want a record, buy reliable recording gear to wear inside your jacket (practise, so you know it works). Don't ask, just do it, because if you ask your employer and they refuse, their doctor will probably ask whether you have a recording device on you. So, don't put yourself in the position of not wanting to lie. Then have the recording typed up, as a record. You may never need to use it, but if you do, you can incorporate parts of it in your affidavit or your barrister can draw on it in cross-examining their doctor.

Your employer's psychiatrist might turn out to be a hired gun, always doing what the employer wants. Or the psychiatrist might be lazy or incompetent or both. For whatever reason, if the psychiatrist ignores your version of the events then you are in a much better position. If their insurer declines liability, you can take the case forward on your own terms. On the other hand, if you had ignored your employer's direction to have an assessment, your employer would be able to sack you for refusing what could be shown to be a reasonable order.

Stay at work if you're up to it. Most employers want a whistleblower off the premises. You'll need to gird your loins as they say, that is, accept that retaliation is usually part of the territory and push on with your whistleblowing agenda.



If you stay at work, then use your sick leave only in short, one or two-day bursts to give yourself a break, but get back to work, before anyone can make it their business. Don't give them a break from their wrong moves. Keep

the standard of your work up to what can be shown to be reasonable, given all the circumstances. Keep records about what work you and others do, so you can draw comparisons later if you need to.

If someone from human resources slides up to you, feigning sympathy with your obvious upset and suggests you go off on workers compensation, know them for an agent for the other side. Thank them, but keep your own counsel and stay at work. Same deal, if they suggest you see the staff psychologist. Don't let them tempt you into a wrong move, so that they can get on with things, safe in the knowledge that all they need to do is keep you off the premises.

If you are still agonising over your employer's actions, when you know they know the rules, stop agonising now. They know they're breaking the rules. They're not doing the right thing by you, because they want you gone and they don't care how they do it! They're covering their backs. I know it's disappointing, but your workplace is only ever as ethical as the people in a position of power want it to be, and sometimes that's not enough. You need to understand what you're dealing with and use it to your advantage where you can. In other words, know your enemy.

Finally, don't be too hard on yourself. I know this whistleblowing business is not for the faint hearted, so if you feel you have to get out of there, then do. Just don't let them make you a basket case. They're not worth it and, curiously, they'll still think you've won, just by not letting them make you sick. And be happy with yourself, because you did your bit when you spoke out about their wrongdoing. No one can ask you to do more.



The take-away message

Your goal

Keep the focus on what you've blown the whistle about.

Your methods

- If sent to see your employer's psychiatrist, agree but point out if the rules don't allow it and it's a reprisal.
- Also see your own psychiatrist.
- Prepare a written account of events, plus supporting documents, and give it to each psychiatrist.
- When seeing the psychiatrist, be calm, courteous and reasonable.
- If you want a record of the consultation with the psychiatrist, make a covert recording.
- If at all possible, stay on the job, or take just a day or two off at a time.
- Your health is more important than your job. Be generous to yourself. Quit the job if you need to.

Cynthia Kardell is president of Whistleblowers Australia.

Learning from Snowden

A review and commentary on Luke Harding's book *The Snowden Files*, with special attention to implications for leaking and whistleblowing

Brian Martin

IN JUNE 2013, spectacular revelations were reported in the news. A secretive US organisation, the National Security Agency, was carrying out extensive spying on people's electronic communications. This spying was massive. The NSA, according to reports, was collecting just about everything imaginable: emails, phone calls, texts, you name it — from everyone around the world.

The revelations continued for weeks and months. The NSA was spying on US citizens in the US, apparently in violation of the law. It was also spying on foreign leaders. For example, there were reports that the NSA had monitored the personal mobile phone of Germany's chancellor Angela Merkel, and the phones of many other political leaders.

The stories were broken by the *Guardian*, a well-known British newspaper and media group. The

Guardian's information came from an NSA insider who had leaked vast amounts of NSA top-secret material. This was unheard of. The NSA did not have leaks.

Several days later, the leaker went public. He was Edward Snowden, a 29-year old NSA contractor who looked even younger than his age, and he was in Hong Kong.

Snowden said he had released the material because it showed the US government was carrying out massive surveillance, and that this needed to be exposed. He seemed to be sincere.

US government officials were furious. Snowden became a wanted man, and the full power of the US government was deployed in an attempt to arrest him.

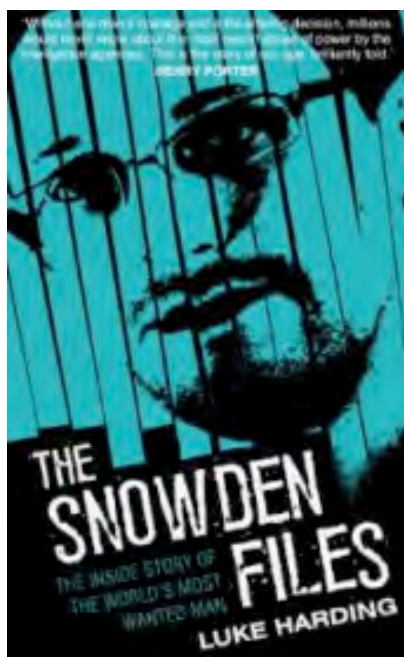
If you've read Robert Ludlum's novels about Jason Bourne, or seen the films based on them, starting with *The Bourne Identity*, you'll have an idea of how surveillance capacities might be used to track down a rogue agent. Something similar happened in Snowden's case, but this time in reality rather than fiction. The US government pulled out all stops, not to assassinate Snowden, but to arrest him.

The Snowden Files

If you followed the Snowden revelations via news reports, like me, some of the basic points will be clear but how it all hangs together may not be so obvious. For a broader perspective, I recommend Luke Harding's new book *The Snowden Files: The Inside Story of the World's Most Wanted Man* (London: Guardian Books, 2014). Harding is a journalist for the *Guardian* and has obtained first-hand information on key events. Just as importantly, Harding writes in an engaging fashion. Parts of the book read like a thriller.

Harding's book covers Snowden's early online presence, his patriotism, his work for the NSA, his gradual disillusionment due to observing dubious activities carried out in secret, his collection of NSA files and leaking of them to the *Guardian*, and his experiences as a fugitive. In between the Snowden narrative, Harding tells about the massive spying operations carried out by the NSA and its partners, especially its British equivalent GCHQ. He also tells how the media —

especially the *Guardian* — handled the biggest leak in history in the face of implacable hostility from intelligence agencies and top politicians. Snowden was incredibly brave and shrewd, but so were quite a few others in the story.



Lessons for whistleblowers

Here I offer a few lessons for whistleblowers based on Snowden's experiences. Although few whistleblowers reveal information warranting international headlines, every effort at speaking out in the public interest is important and hence worth doing as well as possible.

Leaking is revealing inside information, typically to media or sometimes to interested groups. A lot of leaks are from top politicians and bureaucrats. These leaks are everyday operations intended to manipulate public opinion for political or personal purposes.

However, when someone leaks information in the public interest, for example exposing corruption or dangers to the public, top managers typically treat this as a serious breach of trust. Leakers are often called traitors. The double standard is stark: it's okay for bosses to leak but not for employees.

Whistleblowers are people, typically employees, who speak out in the public interest, and most of the time they reveal their identity immediately, such as when they report a problem to the boss or some internal body. Unfortunately, this is disastrous much

of the time: the whistleblowers are attacked — for example ostracised, denigrated, reprimanded, sometimes dismissed — and furthermore their access to information is blocked. As soon as their identity becomes known, they have limited opportunities to collect more information about wrongdoing.

For these reasons, it is often advantageous for whistleblowers to remain anonymous, and to leak information to outside groups, especially to journalists or action groups. The leaking option reduces the risk of reprisals and enables the leaker to remain in the job, gathering information and potentially leaking again. Furthermore, stories based on leaks are more likely to focus on the information, not the leaker.

Lesson 1: be incredibly careful

Snowden leaked the most top-secret information of anyone in history, but it wasn't easy. The lesson from his experiences is that to be a successful leaker, you must be both knowledgeable and incredibly careful. Snowden had developed exceptional computer skills. He was leaking information about state surveillance, and he knew the potential for monitoring conversations and communication. He took extraordinary care in gathering NSA documents and in releasing them. When he contacted journalists, he used secure email. When meeting them, he went to extreme lengths to screen their equipment for surveillance devices. For example, before speaking to journalists, he had them put their phones in a freezer, because the phones might contain monitoring devices.

Few whistleblowers need to take precautions to the level that Snowden did: his enemies were far more determined and technically sophisticated than a typical whistleblower's employer. Nevertheless, it is worth learning from Snowden's caution: be incredibly careful.

Lesson 2: choose recipients carefully

Snowden considered potential recipients for his leaks very carefully. He wanted journalists and editors who would treat his disclosures seriously and have the determination to publish them in the face of displeasure by the US government. He decided not to

approach US media, which usually are too acquiescent to the government. US media have broken some big stories, but sometimes only after fear of losing a scoop. The story of the My Lai massacre, when US troops killed hundreds of Vietnamese civilians during the Indochina war, was offered to major newspapers and television networks, but they were not interested. In 2004, US television channel CBS initially held back the story about abuse and torture of Iraqi prisoners by US prison guards at Abu Ghraib prison, at the request of the Pentagon, finally going to air because the story was about to be broken in print.



Snowden didn't approach the *New York Times*

Snowden decided instead to approach the *Guardian*, a British media group with a history of publishing stories in the public interest, despite government displeasure. It was a wise choice.

Lesson 3: be persistent

Snowden decided to approach the *Guardian*, and not just anyone: in late 2012 he contacted the *Guardian's* freelance columnist Glenn Greenwald, noted for his outspoken stands critical of US government abuses, especially surveillance. Snowden sent Greenwald an anonymous email, offering disclosures and asking Greenwald to install encryption software. However, Greenwald — resident in Brazil — was busy with other projects and didn't get around to it. So Snowden created a video primer for installing the software just to encourage Greenwald to use it. However, even this wasn't enough to prod the busy Greenwald to act.

Snowden didn't give up. In January 2013, he next contacted Greenwald's friend and collaborator Laura Poitras — a fierce critic of the US security state, and a victim of it — who he

thought would be interested herself and who would get Greenwald involved. It worked.

The lesson is to be persistent in seeking the right outlet for leaks — and to be careful and patient along the way.



Lesson 4: improve communication skills

Snowden is a quiet, unassuming sort of person. He might be called a nerd. Contrary to some of his detractors, it was not his desire to become a public figure. Despite his retiring nature, Snowden knew what he wanted to say. He refined his key ideas so he could be quite clear when speaking and writing, and he stuck to his message.

Most whistleblowers need good communication skills to be able to get their message across. (In a few cases, leaking documents without commentary might be sufficient.) My usual advice is to write a short summary of the issues, but this isn't easy, especially when you are very close to the events. Being able to speak well can be just as important, if you have telephone or face-to-face contact with journalists or allies. Many people will judge your credibility by how convincing you sound in speech and writing. Practice is vital, as is feedback on how to improve.

Lesson 5: make contingency plans

Snowden thought carefully what he wanted to achieve and how he was going to go about it. Initially he leaked selected NSA files to journalists to pique their interest and demonstrate his bona fides. After all, who's going to believe someone sending an email saying they can show the NSA is carrying out massive covert surveillance of citizens and political leaders?

After establishing credibility, Snowden then arranged a face-to-face meeting, to hand over the NSA files and help explain them: many of the files were highly technical and not easy for non-specialists to understand.

After the initial stories in the *Guardian* and the ensuing media storm, Snowden knew that it would be impossible for him to remain in hiding. The US government would do everything possible, technically and politically, to find and arrest him. So Snowden decided to go public, namely to reveal his identity. This would help to add credibility to the revelations by attaching them to a human face.

He did not anticipate every subsequent development: it was not part of a plan to flee Hong Kong and end up in Russia. Even so, Snowden anticipated more of what happened than most whistleblowers, who are often caught unawares by reprisals and stunned by the failure of bosses to address their concerns and of watchdog agencies to be able to protect them.

The lesson from Snowden is to think through likely options, including worst case scenarios, and make plans accordingly.



Lesson 6: be prepared for the consequences

Snowden knew that leaking NSA documents would make him a wanted man. He was prepared for the worst scenario, arrest and lengthy imprisonment. He knew what he was sacrificing. Indeed, he had left his long-time

girlfriend in Hawaii, knowing he might never see her again. He made his decision and followed it through.

So far, Snowden has avoided the worst outcomes, from his point of view. He might have ended up in prison, without access to computers (his greatest fear), perhaps even tortured like military whistleblower Chelsea Manning. Still, living in Russia — an authoritarian state, where free speech is precarious — is hardly paradise. Snowden is paying a huge price for his courageous actions. He knew he would, and he remains committed to his beliefs.

Whistleblowers seldom appreciate the venom with which their disclosures will be received. It is hard to grasp that your career might be destroyed, and perhaps also your finances, health and relationships. It is best to be prepared for the worst, just in case. Being prepared often makes the difference between collapsing under the strain and surviving or even thriving in new circumstances.



Whistleblowers: plan your escape route

Reprisals are only partly directed at the whistleblower. The more important audience is other employees, who receive the message that speaking out leads to disastrous consequences.

Snowden has provided a different, somewhat more optimistic message. He has shown that the NSA is not invincible: its crimes can be exposed. He has shown that careful preparation and wise choices can maximise the impact of disclosures. He has stood up in the face of the US government, and continued unbowed. Although few whistleblowers will ever have an opportunity like Snowden, or take risks like he has, there is much to learn from his experiences.

Brian Martin is editor of *The Whistle*.

Code of conduct vital to protect corporate whistleblowers

Michael Woodford champions a move to protect those who expose corporate wrongs.

Sydney Morning Herald,

10–11 May 2014, BusinessDay p. 4

Brian Robins



Speaking out: Michael Woodford exposed massive fraud at Japanese giant Olympus. *Photo: Bloomberg*

HE was the first gaijin “salaryman” who rose through the ranks to become the chief executive of a major Japanese company.

But within a matter of months he was out the door — and then he blew the whistle on almost \$US2 billion in corporate malfeasance.

Now he has thrown his weight behind a push to improve corporate governance, not just in Japan or elsewhere in north Asia, where he has first-hand experience of the problems, but more broadly by seeking more support for whistleblowers, and also for more women directors to help change corporate cultures.

Michael Woodford was appointed the president of Olympus in 2011. Best known for its cameras, Olympus has long dominated the global market for endoscopes, which is a highly profitable niche market in the medical devices industry. Soon after taking over the reins he uncovered massive fraud, whereby the company had buried heavy investment losses from the late 1980s. But rather than give him a clean hand to sort out the mess,

the board closed ranks and pushed him out.

Living through his own version of a fast-paced John Grisham novel as he fought his case, Woodford says he went through his own “purgatory,” and was shocked by the way people he knew and had worked with for years reacted as events unfolded, and the way they moved away from him once he was fired.

“My wife, because of the alleged involvement of [the yakuza gangsters] and the threat by [Olympus] to sue me ... started very quickly to lose it, and was very close to having a nervous breakdown. Every night she would be screaming between 1am and 2.30am in the morning for several minutes, in a total state,” Woodford said.

“Why didn’t those people send an email, or even a text? They just excommunicated me.”

Unlike most whistleblowers, Woodford could access high-priced lawyers.

“I spent £1 million on legal fees in 12 weeks with lawyers in Tokyo, Washington and London. But what would it be like if you were a residential care worker or a junior accountant in a large organisation? It is those people I would like to help,” he said.

In Britain, the former corporate high flyer-turned-activist is behind a push for a code of conduct to protect whistleblowers: “If you don’t trust your boss or your boss’s boss, what do you do?”

Legislation may be in place to handle employment grievances, but not whistleblower complaints in the private sector. Public servants may have some workplace protections but in Britain Woodford, and others, are pushing for all companies above a certain size to be forced to establish clearly defined procedures for handling whistleblower claims, via non-executive directors.

Corporate governance issues aren’t confined to non-European or non-US markets.

In the wake of the Libor interest-rate setting scandal in Britain, the Financial Surveillance Authority, which was replaced by the Financial Conduct Authority, established its own

whistleblowing authority, with a lot of women in senior management.

“Whistleblowers used to be seen as snitches, telltales, troublemakers ... public opinion is so sceptical now, the backdrop is changing. That offers some hope. One thing that helps change the corporate culture is having women in the boardroom,” Woodford says. “Powerful men need to be held to account,” he says, adding it is very important for the board to include independent, non-executive directors. “You look at boards which are predominantly male, or overwhelmingly male, and that’s always a bad sign.”

Then there is the need for auditors to play a stronger role, he says, “to become more forensic.”

But any country with “‘Asian-values’ of obedience, respect of hierarchy” can have acute governance problems, Woodford says.

“In Japan, I’m considered a traitor ... [for showing] infidelity to the corporation, regardless of the rights and wrongs,” he says.

The professor, for example, who did the report for the Japanese government on the Fukushima nuclear meltdown described it as a “disaster made in Japan,” Woodford says, “because of blind obedience to the hierarchy and a complete lack of willingness to point out any criticisms, and you can put that template across corporate Japan.”



Workers at a Fukushima facility

Breaking The Witness?

Is the inquiry into Hunter region child abuse unfairly targeting a whistle blowing cop? In this speech delivered to the NSW Parliament, Greens MP

David Shoebridge

argues the evidence is clear.
New Matilda, 20 May 2014



David Shoebridge

THE task of any Royal Commission or Special Commission of Inquiry is to uncover the truth. This should be the sole goal of the Special Commission of Inquiry concerning the investigation of child abuse allegations in the Hunter region.

However, many observers consider that this Inquiry has strayed from its path and instead become a one-sided prosecution of Detective Chief Inspector Peter Fox.

When Peter Fox blew the whistle on child abuse in the Hunter region and alleged that the Catholic Church and the NSW Police had failed for decades to adequately protect victims or prosecute perpetrators, it was inevitable his claims would be subject to rigorous examination.

Fox's allegations seriously challenged two of the most powerful institutions in our society, the NSW Police and the Catholic Church. Anyone watching the debate on child abuse that was unfolding in this country in late 2012 could see both these institutions were bristling under the criticism

that they had failed in their duties to protect and serve.

In stepped then Premier Barry O'Farrell who rushed to establish the Hunter inquiry with very narrow terms of reference and a senior crown prosecutor, Margaret Cunneen, as Commissioner. The Hunter Inquiry is strictly limited to inquiring into the alleged failings of the Church and Police in regards to the criminal child abuse by just two priests, Denis McAlinden and James Fletcher.

As the Inquiry has unfolded it has become increasingly clear that it is not really the Catholic Church or the NSW Police that it is putting under the microscope. It is Peter Fox. While the Commonwealth Royal Commission into Institutional Child Abuse has been uncovering appalling and systematic child abuse by one institution after another, the Hunter Inquiry has been focussed on demolishing one man.

As a barrister myself I have been in trials lasting days, weeks and even months. I have represented clients during months of hearings in a Royal Commission and seen countless witnesses facing hours of cross examination. In the most extreme, and rare, cases this cross examination can last up to two or three days, as issue after issue is explored in depth.

Cross examination is intended to rigorously test evidence that a witness has given. It is an unbalanced process where the barrister has all the power and the witness can be run in circles with little, if any, ability to fight back. At the end of two or three days cross examination all but the most extraordinarily robust witness is reduced to a wreck. By this stage a witness is exhausted, mentally and physically, and in danger of giving whatever answer they can to just end the barrage.

Peter Fox has spent 14 days in the witness box during this Hunter Inquiry. Almost the entirety of this time has been under cross-examination from a pack of barristers representing the Inquiry, the Church and Police.

Little if any constraint has been ordered by the Commissioner. The end result has been hours and hours of relentless questioning on often obscure details stretching back over decades of Fox's eventful, stressful and extensive policing career. Nobody's credibility

can survive this kind of assault. Nobody's mental or physical health can withstand it either.

The final insult from this abusive Inquiry came on December 11 when Fox was called to give his 14th day of evidence. The night before he had spent a sleepless night, deeply distressed by news that his brother had been involved in a serious accident and had suffered potentially life-threatening injuries. Despite the impact of the continued questioning, his personal distress and lack of sleep, Fox again faced up to the Inquiry.

Starting at 1:30pm in a court room in Sydney, the Inquiry was informed of Fox's personal situation and distress. He was advised that the Commissioner understood. A senior solicitor with the Inquiry told Fox that the questioning would only take a short period of time. When Fox asked "What, half an hour?" He was advised "If that."

He was then cross-examined for five hours by five different barristers with sporadic additional questioning by Commissioner Cunneen. No apology was given. No break was granted save for allowing Fox five minutes out of the witness box to confer with his own barrister in the middle of this final attack.

Fox is a tough old copper but he and his wife Penny, who was present during her husband's ordeal, were both seriously shaken by this. That night, having driven half way home to their place in the Hunter, they pulled over on the F3 Freeway and together they cried. Who wouldn't?

A senior counsel with long experience in Commissions of Inquiry informed me that it was his view that such treatment of a witness was "outrageous." It was evidence, he said, that the Inquiry was failing in its prime duty to uncover the truth and not to attack witnesses.

A recent leak of the Inquiry's draft findings to News Limited suggests that they will be deeply critical of Fox. Nobody watching it would ever have thought differently.

But this narrow, one-eyed Inquiry will soon come and go. The politician who set it up already has. For Fox, and the countless thousands of survivors of child abuse who credit him for his courage, the real inquiry is the

Commonwealth Royal Commission into Institutional Child Abuse.

In stark contrast to the Hunter Inquiry, the Commonwealth Royal Commission's balanced, insightful, brave and respectful approach is widely applauded. Its unambiguous aim is to uncover the truth and to hold those guilty of past abuses to account. Everyone who hasn't been lost in the Hunter Inquiry knows we have Fox to thank for that.

Peter Fox: I would do it again

Newcastle Herald, 30 May 2014
Jason Gordon



Peter Fox

HE'S been battered by the very commission of inquiry which he instigated, but Detective Chief Inspector Peter Fox says he would "not hesitate to walk the same path again."

Speaking exclusively to the *Newcastle Herald*, Mr Fox vigorously defended himself and his actions following yesterday's final report handed down by Commissioner Margaret Cunneen SC.

The report found there was no evidence to support claims that a "Catholic mafia" existed within police ranks, nor Mr Fox's claims that a strikeforce set up to investigate alleged cover-ups was a "sham" designed to fail.

Mr Fox, who has been on stress leave since the middle of 2012 and is close to finalising his employment with the NSW Police Force, said much of his evidence to the commission had been distorted.

He suggested the commission had served more as a witch hunt against

him than an investigation into the cover-up of child sexual abuse.

"Much of my original submission was redacted with instruction from the Special Commission not to raise certain matters at the public hearings," Mr Fox said.

"I understood and accepted some was for legitimate legal reasons, but most I am still unable to fathom as it obscured important aspects of evidence.

"I am saddened by the process and findings, but do not shy away from my comments of 2012. Throughout the special commission I felt more like a criminal on trial than a witness."

Mr Fox also revealed that he had been threatened and harassed throughout the inquiry by a former police officer.

"During the hearings my wife and I were subjected to intimidation and harassment within and outside the court," he said.

"Threats of physical violence resulted in a local court issuing a personal violence order to protect us, the offender being an ex-police officer and associate of senior police present at the hearings.

"The special commission knew I was receiving treatment for stress before subjecting me to a final day of 5 hours of cross-examination ending at 7pm.

"That final onslaught left me mentally and physically broken."

Then-NSW premier Barry O'Farrell announced the Special Commission of Inquiry following claims made by Mr Fox on ABC-TV's Lateline program, and in the *Newcastle Herald*.

But Mr Fox said the commission became "fundamentally superfluous" given the royal commission later announced by then-prime minister Julia Gillard. Because of the royal commission, much of the evidence he presented to the special commission was redacted, or restricted, he said.

"Watching proceedings, one might be forgiven for thinking I was critical of all police for not doing enough about child abuse," Mr Fox said.

"Nothing could be further from the truth. My criticism was aimed at the failure of senior police to target, investigate and take action against those covering up child abuse.

"My submission on that aspect was redacted by the special commission. Conversely, the royal commission has already exposed the systemic institutional concealment of child abuse.

"My disquiet was that such concealment was allowed to flourish, unmolested by law enforcement and others who failed so many. That is what needs to change.

"I was one of countless voices calling for a royal commission. I expected some criticism that was fair, balanced and without apprehended bias. I do not believe that happened."

Victims' rights groups have also rallied behind Mr Fox, although he told the *Herald* he feels uncomfortable with being regarded as a whistleblower.

"I'd like to say I am not comfortable with the term whistleblower," he said. "I never have been. I don't think many who speak out are.

"History has shown many whistleblowers do not survive the reprisals and smears of those they sought to expose. My journey has been no different.

"Nevertheless, I would not hesitate to walk the same path."

Mr Fox is currently overseas with his wife Penny. He said the trip was planned last year for a time well after the commission's findings were originally scheduled to be handed down. Delays in their release meant it coincided with him being overseas.

Don't treat whistleblowers like the plague

Federal News Radio, 22 May 2014

Tom Devine

HISTORICALLY, whistleblowers are magnets for distrust and retaliation. Actions to silence them and suppress their message are understandable from a basic survival instinct. For US federal managers, if an organizational threat is perceived from anyone, the basic survival instinct to eliminate the threat by crushing the whistleblower is strong. But such knee-jerk responses are wrong, unnecessary and usually a counterproductive lose-lose scenario for all concerned.

Ironically, federal whistleblowers normally act out of loyalty to their agency or its mission. If they successfully gain the trust of superiors, overnight their reputation becomes one of a problem solver, not a threat. If more managers view them through this prism — seeing whistleblowers as engaging in the freedom to contribute rather than dissent — then the consequences from disclosures will shift sharply from mutually negative to mutually positive.

Over the last quarter-century there has been a legal revolution in rights both for government and corporate whistleblowers, who are lionized by the public as never before. But they are a source of increasing conflict within organizations. Rates of retaliation actually have risen as rights have been created or strengthened.

It shouldn't be this way, nor does it have to be.

When dealing with whistleblowers, federal managers should be cognizant of lessons learned.



Tom Devine

Retaliation conflicts are unnecessary

Whistleblowers want to resolve matters internally. An Ethics Research Center study found that 96 percent stay inside, not breaking ranks. Think about that in conjunction with a Price Waterhouse Coopers survey finding corporate whistleblowers to be more effective in exposing crimes against their employers than auditors, internal compliance and law enforcement combined. Not only are whistleblowers on your side, they are the single best

resource you have to root out wrongdoing. It undermines agencies' self-interest to view these workers as threats. Overwhelmingly, they intend the opposite.

Retaliation conflicts are counterproductive for agencies

No one should kill the messenger. Often whistleblowers are providing warnings, not attacking. Like the bitter pill that prevents a hospital trip, their observations can prevent disasters.

Federal Air Marshal Robert MacLean's public whistleblowing prevented a Transport Security Administration "mistake" that would have abandoned all coverage during a confirmed, more ambitious rerun of 9/11. Unfortunately, his warning led to termination — hardly an incentive for other government workers to risk professional suicide to prevent what could be disastrous government mistakes.



Robert MacLean

Or look at the Space Shuttle Challenger explosion, proving that it can be disastrous not to listen. At a minimum, whistleblowers' messages can prevent organizational leaders from being blind-sided about problems

they may not learn of until being held publicly responsible for the consequences.

Further, it's a lot more work to retaliate than it used to be and it's not going to change. Whistleblowers' legal rights have a remarkable congressional mandate — four unanimous approvals since 1978 for rights with increasingly wide scopes and steadily stronger due process teeth. At a minimum, employees who want to defend themselves can force agencies into years of distracting, draining depositions and document releases that also may expose far more than the whistleblower's original disclosure. And now that the Whistleblower Protection Enhancement Act has passed, employees have a fighting chance to actually win their cases.

Retaliation conflicts are counterproductive for whistleblowers

The Government Accountability Project has worked with over 6,000 whistleblowers since 1977. We routinely advise them that even if they formally prevail, they likely will lose by incurring more scars in the process than from the original reprisal. Litigation war is hell, and even with strong rights it is a long shot to prevail formally.

Intimidation backfires for everyone

Intimidation clogs the free flow of information for effective government action. The most severe consequence of a chilling effect is when decision makers must fly blind because vital information was suppressed. The 9/11 Commission identified that as a primary cause for the tragedy. Managers must reject a culture of ignorance.

The solution for proper whistleblower treatment is not complicated. Train! Train! Train!

A legal revolution has occurred in recent years, but only a token percentage of agency managers, or even employees, have learned the boundaries of new rights and responsibilities. How many readers know that Controlled Unclassified Information status does not cancel public whistleblowing rights? These types of knowledge gaps must be rectified. Adequate training must include developing a workplace culture of openness and acceptance of

whistleblowers as problem solvers. At a minimum, all agencies should participate actively in the Office of Special Counsel program for certification of merit system compliance.

With whistleblower acceptance, lose-lose situations will be replaced by win-wins. Like in private industry, they should be agencies' main channel for prevention, solution and damage control. Not conflict.

Tom Devine is legal director for the Government Accountability Project, a US non-profit organisation that advocates for the protection of whistleblowers.

Snowden would not get a fair trial — and Kerry is wrong

The Guardian, 30 May 2014
Daniel Ellsberg

EDWARD Snowden is the greatest patriot whistleblower of our time, and he knows what I learned more than four decades ago: until the Espionage Act gets reformed, he can never come home safe and receive justice

John Kerry was in my mind Wednesday morning, and not because he had called me a patriot on NBC News. I was reading the lead story in the *New York Times* — “US troops to leave Afghanistan by end of 2016” — with a photo of American soldiers looking for caves. I recalled not the Secretary of State but a 27-year-old Kerry, asking, as he testified to the Senate about the US troops who were still in Vietnam and were to remain for another two years: how do you ask a man to be the last man to die for a mistake?

I wondered how a 70-year-old Kerry would relate to that question as he looked at that picture and that headline. And then there he was on MSNBC an hour later, thinking about me, too, during a round of interviews about Afghanistan that inevitably turned to Edward Snowden ahead of my fellow whistleblower's own primetime interview that night:

There are many a patriot — you can go back to the Pentagon Papers with Dan Ellsberg and others who stood

and went to the court system of America and made their case. Edward Snowden is a coward, he is a traitor, and he has betrayed his country. And if he wants to come home tomorrow to face the music, he can do so.

On the Today show and CBS, Kerry complimented me again — and said Snowden “should man up and come back to the United States to face charges.” But John Kerry is wrong, because that's not the measure of patriotism when it comes to whistleblowing, for me or Snowden, who is facing the same criminal charges I did for exposing the Pentagon Papers.

As Snowden told Brian Williams on NBC later that night and Snowden's lawyer told me the next morning, he would have no chance whatsoever to come home and make his case — in public or in court.



Snowden would come back home to a jail cell — and not just an ordinary cell-block but isolation in solitary confinement, not just for months like Chelsea Manning but for the rest of his sentence, and probably the rest of his life. His legal adviser, Ben Wizner, told me that he estimates Snowden's chance of being allowed out on bail as zero. (I was out on bond, speaking against the Vietnam war, the whole 23 months I was under indictment).

More importantly, the current state of whistleblowing prosecutions under the Espionage Act makes a truly fair

trial wholly unavailable to an American who has exposed classified wrongdoing. Legal scholars have strongly argued that the US supreme court — which has never yet addressed the constitutionality of applying the Espionage Act to leaks to the American public — should find the use of it overbroad and unconstitutional in the absence of a public interest defense. The Espionage Act, as applied to whistleblowers, violates the First Amendment, is what they're saying.

As I know from my own case, even Snowden's own testimony on the stand would be gagged by government objections and the (arguably unconstitutional) nature of his charges. That was my own experience in court, as the first American to be prosecuted under the Espionage Act — or any other statute — for giving information to the American people.

I had looked forward to offering a fuller account in my trial than I had given previously to any journalist — any Glenn Greenwald or Brian Williams of my time — as to the considerations that led me to copy and distribute thousands of pages of top-secret documents. I had saved many details until I could present them on the stand, under oath, just as a young John Kerry had delivered his strongest lines in sworn testimony.

But when I finally heard my lawyer ask the prearranged question in direct examination — *Why did you copy the Pentagon Papers?* — I was silenced before I could begin to answer. The government prosecutor objected — *irrelevant* — and the judge sustained. My lawyer, exasperated, said he “had never heard of a case where a defendant was not permitted to tell the jury why he did what he did.” The judge responded: *well, you're hearing one now.*

And so it has been with every subsequent whistleblower under indictment, and so it would be if Edward Snowden was on trial in an American courtroom now.

Indeed, in recent years, the silencing effect of the Espionage Act has only become worse. The other NSA whistleblower prosecuted, Thomas Drake, was barred from uttering the words “whistleblowing” and “overclassification” in his trial. (Thankfully, the Justice Department's case fell apart

one day before it was to begin). In the recent case of the State Department contractor Stephen Kim, the presiding judge ruled the prosecution “need not show that the information he allegedly leaked could damage US national security or benefit a foreign power, even potentially.”

We saw this entire scenario play out last summer in the trial of Chelsea Manning. The military judge in that case did not let Manning or her lawyer argue her intent, the lack of damage to the US, overclassification of the cables or the benefits of the leaks ... until she was already found guilty.

Without reform to the Espionage Act that lets a court hear a public interest defense — or a challenge to the appropriateness of government secrecy in each particular case — Snowden and future Snowdens can and will only be able to “make their case” from outside the United States.

As I know from direct chat-log conversations with him over the past year, Snowden acted in full knowledge of the constitutionally questionable efforts of the Obama administration, in particular, to use the Espionage Act in a way it was never intended by Congress: as the equivalent of a British-type Official Secrets Act criminalizing any and all unauthorized release of classified information. (Congress has repeatedly rejected proposals for such an act as violating the First Amendment protections of free speech and a free press; the one exception to that was vetoed by President Clinton in November 2000, on constitutional grounds.)

John Kerry’s challenge to Snowden to return and face trial is either disingenuous or simply ignorant that current prosecutions under the Espionage Act allow no distinction whatever between a patriotic whistleblower and a spy. Either way, nothing excuses Kerry’s slanderous and despicable characterizations of a young man who, in my opinion, has done more than anyone in or out of government in this century to demonstrate his patriotism, moral courage and loyalty to the oath of office the three of us swore: to support and defend the Constitution of the United States.

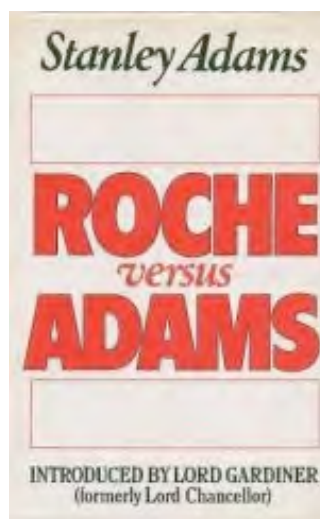
Whistleblowers and deadly medicines

An extract from the book *Deadly Medicines and Organised Crime: How Big Pharma Has Corrupted Healthcare* (London: Radcliffe, 2013), chapter 19, “Intimidation, threats and violence to protect sales,” omitting footnotes

Peter C. Gøtzsche

It takes great courage to become a whistle-blower. Healthcare is so corrupt that those who expose drug companies’ criminal acts become pariahs. They disturb the lucrative status quo where people around them benefit handsomely from industry money: colleagues and bosses, the hospital, the university, the specialist society, the medical association and some politicians.

A whistle-blower may even have the whole state against him, as happened for Stanley Adams when he reported Roche’s vitamin cartel to the European Commission in 1973.



Willi Schlieder, Director-General for Competition at the Commission, leaked Adams’ name to Roche and he ended up in a Swiss prison, charged — and later convicted — with crimes against the state by giving economic information to a foreign power. Roche seems to have orchestrated the police interrogations and when Adams’ wife was told he could face 20 years in prison, she committed suicide.

Adams was treated as a spy, court proceedings were held in secret, and he

wasn’t even allowed to attend his wife’s funeral. The Swiss courts were completely resistant to the argument that Adams had done nothing wrong because Switzerland had broken its free trade agreement with the EU, which specified that violations of free competition should be reported.

It is only in the United States that whistle-blowers may get rewarded to a substantial degree that allows them not to worry — at least not financially — that they might never get a job again. However, whistle-blowers are not motivated by possible financial bounty, but by their conscience, e.g. “I didn’t want to be responsible for somebody dying.” Some companies have ethical guidelines urging people to report irregularities internally and sometimes the leadership is happy to get such information, as they might want to take action. But that’s the exception. All the companies I have studied engage deliberately in criminal activities, and in the United States, there is a log of nearly a thousand healthcare *qui tam* cases (in which whistle-blowers with direct knowledge of the alleged fraud initiate the litigation on behalf of the government), and the Justice Department has suggested that the problem may get worse.

It’s a pretty bad idea to tell a company about its crimes, just like it’s a bad idea to tell a gangster that you have observed his unlawful activities. Peter Rost, a global vice president of marketing for Pfizer turned whistle-blower, has explained that “Pharmacia’s lawyer clearly thought that anyone who tried to resolve potential criminal acts within the company and keep his job was a mental case.”

[See the review of Peter Rost’s book in the July 2009 issue of *The Whistle*.]

Most whistle-blowers who have contacted the company have been subjected to various pressures and sometimes seriously threatened, e.g. “Even if they find something the company will throw you under the bus and prove that you were a loose cannon and the only person doing it.” The company violence also extends to other companies: “I was fired ... Then I took a job. Then somehow [company name not revealed] called the job. Then I was fired.”

There are many similarities to mob crimes. Those who threaten the income from the crimes are exposed to violence, the difference being that in the drug industry, the violence is not of a physical but psychological nature, which can be equally devastating. This violence includes intimidation, instigation of fear, threats of firing or legal proceedings, actual firing and litigation, unfounded accusations of scientific misconduct, and other attempts at defamation and destruction of research careers. The manoeuvres are often carried out by the industry's lawyers, and private detectives may be involved.



Peter Rost

It is highly stressful to become a whistle-blower and cases take 5 years, on average. Peter Rost has described how things went for 233 people who blew the whistle on fraud: 90% were fired or demoted, 27% faced lawsuits, 26% had to seek psychiatric or physical care, 25% suffered alcohol abuse, 17% lost their homes, 15% got divorced, 10% attempted suicide and 8% went bankrupt. But in spite of all this, only 16% said that they wouldn't blow the whistle again.

Thalidomide

Private detectives kept an eye on physicians who criticised thalidomide, and when a physician had found 14 cases of extremely rare birth defects related to the drug, Grünenthal threatened him with legal action and sent letters to about 70 000 German doctors declaring that thalidomide was a safe drug, although the company — in

addition to the birth defects — had reports of about 2000 cases of serious and irreversible nerve damage they kept quiet about. Grünenthal harassed the alert doctor for the next 10 years. An FDA [US Food and Drug Administration] scientist that refused to approve thalidomide for the US market was also harassed and intimidated, not only by the company but also by her bosses at the FDA.



Thalidomide-affected children

The immense power of big pharma is illustrated by the thalidomide court cases. They started in 1965 in Sdertälje, the home town of Scandinavia's biggest drug company, Astra. Astra had manufactured thalidomide, but the lawyer had enormous difficulty finding experts who were willing to testify against Astra. In the United States, the company that had distributed thalidomide even though it wasn't approved by the FDA had hired every expert there was on birth defects to prevent them from testifying for the victims.

In Germany, the court cases were a complete farce. The company's lawyers argued that it wasn't against the law to damage a foetus, as it had no legal rights. Maybe they should have thought about the malformed children, or about the millions of people the Nazis had murdered shortly before this that were also considered to be subhuman and of no value. Three years into the trial, Grünenthal threatened journalists for what they had written and the trial ended with a ridiculously small settlement, about \$11,000 for each deformed baby. No guilty verdict was ever rendered, no personal responsibility was assigned, and no one went to prison. The United Kingdom behaved like a dictatorship state. The journalists weren't allowed to write about the court cases and people at the highest positions in the country, including the prime minister, were

more interested in defending the company and its shareholders than in helping the victims. After a stalemate that lasted for 10 years, the national scandal couldn't be held back any longer and the company, Distillers, which also sold liquor, faced a public boycott. A chain of 260 stores actually did boycott Distillers, and Ralph Nader announced that if the victims didn't get a similar compensation as in the United States, a US boycott would be launched. It took 16 years before the incriminating evidence that had been described in an article the *Sunday Times* was forbidden to print finally came to public knowledge. This was only because the affair ended in the European Court where Prime Minister Margaret Thatcher was asked to explain the mysteries of English law, the rationale of which no one on the continent could understand. The European Commission issued a report that contained the *Sunday Times'* unpublished article in an appendix. It is difficult to understand that the UK censorship happened in a European country. As in Germany, no one was found guilty and no one was even charged with a crime.

Other cases

It is not only the politicians that rather consistently fail to act on industry's crimes, apart from a few outspoken ones in the United States. The chiefs at the whistle-blower's home institution also prefer to look the other way, as they have their own interests to protect. Merck selectively targeted doctors who raised questions about Vioxx and pressured some of them through deans and department chairs, often with the hint of loss of funding. A few days after Eric Topol had testified for a federal jury that Merck's former chair, Raymond Gilmartin, had called the chair of the clinic's board of trustees to complain about Topol's views on Vioxx, his titles as provost and chief academic officer at the medical school in Cleveland were removed.

Lawsuits against Merck have uncovered details about how the company systematically persecuted critical doctors and tried to win opinion leaders over on their side. A spreadsheet contained information about named doctors and the Merck

people who were responsible for haunting them, and an email said: “We may need to seek them out and destroy them where they live,” as if Merck had started a rat extermination campaign. There was detailed information about each doctor’s influence and of Merck’s plans and outcomes of the harassments, e.g. “NEUTRALIZED” and “DISCREDIT.” Some examples are shown in the box.

Quotes from internal Merck spreadsheet concerning doctors who were critical towards Vioxx

- “Strong recommendation to discredit him”
- “Visit from a high-level senior team not necessary”
- “Needs to be on a larger clinical trial with VIOXX”
- “invitation to Merck thought-leader event”
- “He will be a good advocate once we have some published data for him to review”
- “He is being developed by G. Foster/T. Williams”
- “Invite to consultant meetings”
- “He is in the Searle camp and speaks for them”
- “Most influential rheumatologist in the state of South Carolina”
- “somewhat argumentative at the Board Meeting but has been treated well by Merck”
- “held off acceptance of Celebrex on formulary at Oschner pending approval of VIOXX”
- “National impact; speaking extensively for Searle/Pfizer [200 days this year]”
- “numerous reports of biased and inaccurate presentations” (when speaking for other firms)
- “loose cannon, written transcript of a talk was like an advertisement for Arthrotec”
- “will only present data for approved products or information from peer-reviewed literature”
- “would be offended if offered a seed study”
- “is very influential and will have a strong effect on PCP prescribing habits”

An invitation to a “thought-leader event” is like George Orwell’s thought police, which was the secret police of

Oceania in his novel *1984*. It seems that Merck had problems both when doctors were honest, like a doctor who would “only present data for approved products or information from peer-reviewed literature,” and when they were too dishonest, e.g. “frankly would not want this type of person speaking for my product.”

I have given many examples [elsewhere in the book] that show senior staff in drug agencies can behave just as badly as bought deans and department chairs. When associate director in the FDA’s Office of Drug Safety, David Graham, had shown that Vioxx increases serious coronary heart disease, his study was pulled at the last minute from the *Lancet* after Steven Galson, director of the FDA’s Center for Drug Evaluation and Research, had raised allegations of scientific misconduct with the editor, which Graham’s supervisors knew were untrue when they raised them. The study was later published, but just a week before Merck withdrew Vioxx from the market, senior people at the FDA questioned why Graham studied the harms of Vioxx, as FDA had no regulatory problems with it, and they also wanted him to stop, saying he had done “junk science.”

There were hearings at Congress after Merck pulled the drug, but Graham’s superiors tried to prevent his testimony by telling Senator Grassley that Graham was a liar, a cheat, and a bully not worth listening to. Graham needed congressional protection to keep his job after threats, abuse, intimidation and lies that culminated in his sacking from the agency. Fearing for his job, Graham had contacted a public interest group, the Government Accountability Project, which uncovered what had happened. People who had claimed to be anonymous whistleblowers and had accused Graham of bullying them turned out to be higher-ups at the FDA management! The FDA flunked every test of credibility while Graham passed all of them. An email showed that an FDA director promised to notify Merck before Graham’s findings became public so that Merck could prepare for the media attention. That left no doubt about whose side the FDA was on. Hearings were also held at the FDA, but the agency barred the participation of one

of its own experts, Curt Furberg, after he had criticised Pfizer for having withheld data that showed that valdecoxib, which was later taken off the market, increased cardiovascular events, which Pfizer had denied.



Considering these events, it’s not surprising that the *Lancet* concluded: “with Vioxx, Merck and the FDA acted out of ruthless, short-sighted, and irresponsible self-interest.” The COX-2 inhibitors have taught us a lesson, not only about fraud but also about threats. When the *Lancet* raised questions with the authors over a paper on COX-2 inhibitors, the drug company (not named) sponsoring the research telephoned *Lancet*’s editor, Richard Horton, asking him to “stop being so critical,” adding “If you carry on like this we are going to pull the paper, and that means no income for the journal.”

Pfizer threatened a Danish physician, Preben Holme Jørgensen, with litigation after he had stated in an interview in a newspaper — in accordance with the facts — that it was dishonest and unethical that the company had published only some of the data from its CLASS trial of celecoxib. Outraged by Pfizer’s conduct, many of Jørgensen’s colleagues declared publicly that they would boycott Pfizer. Pfizer dropped the charge against Jørgensen but wrote to doctors and in a press release that Jørgensen was misquoted in the newspaper. This was a lie; Jørgensen was not misquoted. Pfizer also complained to the press council alleging that the newspaper’s criticism of Pfizer was “undocumented,” which was also a lie. The press council ruled that the newspaper had done nothing wrong. All the wrongdoing was Pfizer’s.

Conference and annual general meeting

Conference

Saturday 22nd November 2014
8.15am for 9am

AGM Sunday 23 November 2014
8.15am for 9am

Venue: Uniting Church Ministry Convention Centre on Masons Drive, North Parramatta, Sydney NSW

Non-members: \$60 per day, includes lunch & morning/afternoon tea. Optional \$25 extra for dinner onsite 6pm Saturday night

Members, concessional cardholders and students: \$45 per day or \$80 for two days.

This charge (\$45/80) may be waived for members, concessional cardholders and students from interstate, on prior application to WBA secretary Jeannie Berger (jayjellybean@aol.com).

Optional dinner @ \$20 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 (for phone/email see below under enquiries).

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 Coolum Beach BSB 084 620 Account Number 69841 4626 **or** 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

Whistleblowers Australia contacts

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

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; Greg McMahon, phone 07 3378 7232, jarmen@ozemail.com.au

Tasmania Whistleblowers Tasmania contact, Isla MacGregor, phone 03 6239 1054, opal@intas.net.au

Schools and teachers contact Robina Cosser, robina@theteachersareblowingtheirwhistles.com

Whistle

Editor: Brian Martin, bmartin@uow.edu.au

Phones 02 4221 3763, 02 4228 7860

Address: PO Box U129, Wollongong NSW 2500

Associate editor: Don Eldridge

Thanks to Lisa Hamilton and Cynthia Kardell for proofreading.

Conference and AGM

For details, see page 15.

Are times changing?

In the 29 May issue of Sydney's *Daily Telegraph*, a story ran with this title: “NSW SES commissioner Murray Kear facing call to be sacked after ICAC finds him corrupt.”

ICAC is the Independent Commission Against Corruption, which is supposed to ferret out corruption in the state of New South Wales. Whistleblowers have been making disclosures to ICAC for years and all too often have been disappointed with their treatment.

The SES is the State Emergency Services, a body mostly composed of volunteers who respond to calls for help in various dire circumstances, for example storms. The SES serves a vital function, but some SES members claimed there were problems in the organisation, including bullying and nepotism. ICAC was investigating.

SES commissioner Murray Kear was said by ICAC to have failed “to investigate the alleged corrupt conduct of his friend, Deputy Commissioner Steven Pearce. ... ICAC found former deputy commissioner Tara McCarthy was sacked after she raised concerns about Mr Pearce ...”

Tara McCarthy was a whistleblower: she lost her job apparently as a result, a classic example of a reprisal.

Cynthia Kardell, president of Whistleblowers Australia, has been following ICAC for many years. She says it is the first time she can remember in which ICAC has found someone to be corrupt for sacking a whistleblower!

Times do change!

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