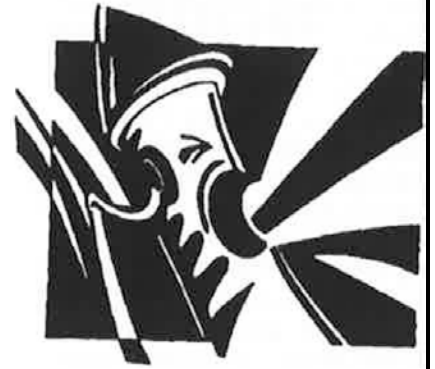


"All that is needed for evil to prosper is for people of good will to do nothing"—Edmund Burke



The Whistle

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Lesley Pinson, 1960–2015 (see page 2)

Tribute to Lesley Pinson, 1960–2015

Lesley

Louise Hobden

My very special friend —
I had known you
For forty-four years.

Even though you were
The other side of the world
For twenty-six of those years
In your beloved Australia.

What a brilliant brain you had
You always were a trailblazer,
Taking risks, pushing the boundaries—
Leading me astray ...!

Willing to give advice
Hating injustice and unfairness
Keenly interested in politics and world
affairs
Wanting to be a champion for peace

Often in awe of other people
So generous with your compliments
Naively unaware that it was *you*
Who deserved them.

It was all of these traits
Ever since you were a teenager
That led you to be so brave.

Not much fun
Being a single mum
But you have a wonderful son
Who was your pride and joy.

Your life must have been such a
struggle
Given the series of misfortunes
You encountered —
After blowing the whistle

Ultimately your courageous nature
Was your undoing
And it seems so unfair
That you died alone and a virtual
recluse.

Thankfully your selfless endeavours
Have, and will, help so many others
Who struggle to become
Whistleblowers.



Charlie and Lesley Pinson

Remembering Lesley Pinson

Cynthia Kardell

I WAS deeply saddened to learn that Lesley Pinson died alone on Christmas day last year and was not found for two days. I don't know why dying alone always seems so shocking, but it does. Although I'm not surprised she was alone, because Lesley could be a really difficult, sharp-tongued friend to be around if you didn't do as you were told. I hope she wasn't in pain or frightened.

Lesley is survived by her son Charlie, who was 19 when she died. He was only a toddler when I last knew him, so I'm remembering Lesley for him as much as for the part she played in our lives, because she was a strong, capable woman who could find it in herself to help others at times when her own life must have been in free fall. The Lesley I knew was also insightful, innovative and resourceful and she was good for our organisation. I look back with thanks.

I met Lesley at the first Tuesday night "Caring and Sharing" meeting I attended at the Presbyterian Church Hall in Balmain, which she co-convened with former branch president Jim Regan and committee member

Richard Blake. Richard was another highly competitive individual, so the meetings were often a bit lively, because Lesley was quick to grasp the detail of your story and see the way through and just as quick to lose patience with you if you didn't run with it.

Lesley was formerly an auditor with the State Rail Authority (SRA). She had systematically documented incidents of theft and more serious system-wide fraud from the top down concerning freight, petty cash, wages, leave entitlements and backhanders and made possible by an entrenched culture of sexual and racial harassment. Lesley understood the SRA was a corrupt organisation, but the senior management didn't want to know. They just wanted to shut her up and eventually they dismissed her.

Undaunted, Lesley took her claims of corruption and cover-up to the press, Brian Langton MP, Shadow Minister for Transport, and the Independent Commission Against Corruption (ICAC), which, as was its habit, referred them back to the SRA for investigation. It all became very messy politically and an election issue when Barry O'Keefe QC, Commissioner of the ICAC, airily dismissed Lesley's claim that the SRA was corrupt, because the ICAC was under serious attack itself at the time. And by then Brian Langton had the benefit of a preliminary assessment of Lesley's work, after he had encouraged Lesley to take her claims to Tony Harris, Auditor General of the Audit Office of NSW.

When Brian Langton became the Minister for Transport in April 1995 he formally requested the Audit Office to conduct a full inquiry into the SRA. Lesley publicly rallied other SRA whistleblowers, some of whom had already come to Whistleblowers Australia to make submissions to the Audit Office. The report on the inquiry was completed and submitted to state parliament in May 1996. It comprehensively found that the SRA was indeed corrupt and called for root and branch reform. Lesley was quietly triumphant, no doubt relieved but really anxious about whether the

proposed changes would have the desired result.

In an article in the *Sydney Morning Herald* on 29 May 1996 entitled “Langton challenges ICAC over SRA,” Langton slammed the ICAC for its incompetence and called on it to explain how it could justify its continuing existence. O’Keefe wasn’t having any of it and famously retorted on radio that he’d always known the SRA was corrupt, in fact that it was “a bottomless pit of corruption” (as Lesley reported in *The Whistle* in June 1996). He wanted more funding if he was going to conduct a full corruption inquiry.



Barry O’Keefe

O’Keefe’s problems were just beginning, but by July 1996 it was effectively all over for the SRA. Lesley’s whistleblowing eventually led to some high profile scalps, a number of prosecutions and the SRA being broken up into four separate entities, including what we know today as City Rail. And although Lesley knew who had done what and to whom and so couldn’t be entirely satisfied with the outcome (after all, no one was taken out at dawn and shot!), she can be proud of what she did, because it was truly a blow for the brave, and significant in the history of NSW.

In remembering Lesley I read through some of the early issues of *The Whistle* and smiled, as Lesley’s voice leapt out at me from the page, because there’s quite a bit of Lesley and it can be a good read. She almost single-handedly transformed a branch newsletter into the national newsletter we

know today. The first issue was published in August/September 1995. I can even hear her in my head now. She was on the phone one day. “We should call it *The Whistle*.” And later on, “I’ve found a picture of a whistle, for the logo.” “Yeah, that’d be good” I said. And so it was that *The Whistle* as we know it today was born, name, logo, Edmund Burke and all.



Whistle image chosen by Lesley for the front page of *The Whistle*

In 1996 the NSW branch set up an office in the former vestry under the church at Balmain. I had the phone connected almost immediately and by mid 1997 we had acquired fax, computer and printer facilities. Initially Lesley and I took turns to attend the office once or twice a week, but eventually Lesley was routinely there two or maybe three days a week. It was opportune because she’d become national director in December 1996 and it allowed her to pursue what she saw as a more national role. She’d often ring me twice, even three times a day. I always thought she was sort of thinking out loud, because she didn’t want much from me — just an ear and the occasional uh-huh. She’d rave on about what she’d just been on the phone to a journalist about or the latest corruption scandal in the news and how it could all be fixed. I always thought she was struggling with depression so it was better than her being at home, endlessly playing solitaire or patience with a cigarette in one hand and a drink in the other.

At the annual general meeting in 1997 Lesley moved to the national secretary’s position. I don’t know why. I do know that she had an ongoing dispute with the treasurer, which played itself out as a formal matter at Lesley’s call at the AGM. I was one of

those who supported the treasurer’s account. Afterwards, it was never the same between us. She was elected as an ordinary committee member at the 1998 AGM, but looking back she was gone from the life of the organisation by early 1998.

Remembering Lesley I realise she was at her best when she was organising a campaign she believed in. This is where she shone, although woe betide anyone who refused the call to arms. I remember in 1997 when Jean Lennane, Whistleblowers Australia’s founding president, wanted us to join with others to form the Australian Child Protection Alliance to expose the politicians and members of the judiciary and others who were abusing the adolescent prostitutes or ‘rent boys’ who ‘worked the wall’ in Darlinghurst. Jean co-opted Franca Arena, Labor MLC and Lesley co-opted the willing and not so willing to hold night time vigils outside Parliament House and worked on the media.



Franca Arena

It’s fair to say that Franca put the cat among the pigeons (and her job on the line), when she tabled the boxes of complaints in the NSW Parliament. In her speech Franca thanked Jean Lennane and among others fellow members Chris Dale, Sue Dale, Lesley Pinson, Karlene Jones, Jim Regan, Louise Roy and Alastair Gaisford. She said “these people have worked tirelessly in the past couple of months. They organised vigils outside Parliament House on 14, 15 and 16 August and organised a rally in the Domain on Saturday, 6 September.” All hell did break loose and Franca did lose her

job, but eventually the government had to act and set up the first child protection unit headed up by UK recruit Bob Woodhouse. It was a job worth doing and a job well done.

Lesley, I want your son to know his mother is remembered well by many.

Cynthia Kardell is president of Whistleblowers Australia.

Lesley Pinson: passion and burnout

Brian Martin

My first contact with Lesley was when she rang me in April 1995. She had read or heard about my work on suppression of dissent. She said she had been involved with Whistleblowers Australia (WBA) for six months and was putting out the group's newsletter. Thus began our regular interactions, usually by phone, because Lesley lived in Bondi, in Sydney, and I lived in Wollongong.

In a letter she wrote me a couple of months later, after her signature she added "Newsletter Editor, Whistleblowers (NSW) (& self-appointed troublemaker)." She started telling me about all sorts of things to do with the whistleblower scene: technicalities of the Crimes Act, contacts from other countries, pamphlets WBA should be producing, and difficulties with members.

Before long she was encouraging me to become more involved. She asked me to be the Wollongong contact for WBA. She told me about various whistleblower cases, for example Philip Nitschke in the Northern Territory (who blew the whistle on nuclear hazards) and Vince Neary, an employee of the State Rail Authority (SRA) who had settled his case and couldn't talk about it, about which she was angry.

Lesley had also worked for the SRA and, like Vince, was a whistleblower there. Her experience was an important part of what motivated her. But she never talked much to me about the details. It was always about the NSW branch, media stories, individuals and plans to take action.

Even in those early months after we made contact, it was obvious that Lesley had her own personal troubles.

In October 1995, she told me she had been in a black hole for several weeks and that there had been a "shit fight" in the NSW branch. Indeed, she had told me 80% of the time of WBA's national committee was taken up with disputes between members. I didn't try to probe the connection between Lesley's mental state and tensions in WBA, nor to figure out how much Lesley contributed to the tensions. After all, many whistleblowers are traumatised, and what happens afterwards can take many forms.



WBA shit fighting

At that time, Jean Lennane was WBA president. Jean was eager to step down and convinced me to take on the job, which I did from the beginning of 1996. From my conversations with Lesley, I already knew it would be challenging. Jean was always a source of wise advice. As well, I had more frequent connections with Lesley. Besides being newsletter editor, she was an office bearer on the WBA national committee.

Her title was National Director. This was an ill-defined position, sitting alongside the positions of president, two vice-presidents, secretary and treasurer. For Lesley, being national director meant becoming the country's key contact for whistleblowers. She had lost her job at SRA and seemed to put all her energy into WBA matters. She was constantly on the phone to whistleblowers across Australia, and sometimes ran up extensive phone bills — national calls were quite expensive in those days.

When I became president, I decided to travel around the country and interview whistleblowers, partly to learn from their responses to my questions and partly to make contact and get a sense of what was happening. This was the time of the NSW police royal

commission, and the spotlight was on police corruption in NSW. However, in every other capital city, whistleblowers told me "The police are just as corrupt here as in NSW." For me it was an illuminating journey.

One of my first meetings, in January 1996, was in Sydney, with Vince Neary and Lesley. Here is an edited version of her responses to my questions.

- What were the important lessons from your experience?

Lesley: To expect the worst and be prepared for it. This is being realistic, not pessimistic. There is no one way of succeeding. You have to try every available technique, keeping one step ahead of the other side.

- What do you wish you'd known at the time (before or when it happened)?

Lesley: More about the law and my rights (where clearly documented), e.g. what was clearly illegal. Also, papers on suppression.

- What people/groups were most helpful? Why? How?

Lesley: WBA, which enabled me to talk to other whistleblowers. It helped me to realise I wasn't alone, showed that the system was corrupt and that others confronted the same problems. It helped me to realise I wasn't mad and made it possible to respond in a more informed way.

Other individual contacts helped. The only other helpful groups (besides WBA) were campaign groups, such as on public transport, health, environment.

- What (if any) writings were/are most useful? Why?

Lesley: Jean's article ["What happens to whistleblowers, and why"] ... but only afterwards. Nothing at the time. *Courage Without Martyrdom* [by the Government Accountability Project in the US] is excellent. What we need are tips on how to go about blowing the whistle.

- What materials/ideas are most helpful to an inside bureaucratic dissident (not necessarily a whistleblower)?

Lesley: Leaking documents. Change happens all the time. People make suggestions and they are acted upon. But when whistleblowers encounter corruption then it's another matter.

- Do you know cases in which bureaucratic dissidents have changed a bureaucracy significantly?

Lesley: The State Rail Authority has spent vast amounts of money on signalling as a result of Vince's efforts (though not necessary making things safer).

All efforts bring about change. All whistleblowers have an effect.

The Police Royal Commission has made a difference. But there are no simple case studies.

• What systemic changes had there been that led to the situation?

Lesley: The SRA hasn't changed. In a system with lots of cash changing hands, stealing at stations is commonplace. People are promoted by seniority. The result is that the top people started off as petty thieves. There's no system in place to stop the problem.



Page 1 of *The Whistle*, Issue No. 1, August/September 1995

Throughout 1996, Lesley and I had regular telephone conversations. In those days, I took notes on significant phone calls, and for what I write here I have relied heavily on these notes. Nearly everything Lesley and I discussed concerned WBA and whistleblowing, including individual whistleblower cases, media stories about whistleblowing, drafts of *The Whistle* (Lesley remained the editor), memberships in WBA, and finances of the organisation. This was plenty of activity for anyone, but to compound matters, there were serious internal problems in WBA. These are not simple to explain. My perception was that there was a major struggle going on within WBA's Victorian branch involving personalities and policies,

and each side in the struggle appealed to the national committee — to me as president, Lesley as *Whistle* editor and several others — to win support. This in turn created tensions within the national committee and the NSW branch.

To complicate matters, members of the national committee were involved in helping organise the 1996 national conference held in Melbourne. Then there was the 1997 annual general meeting, in Canberra, at which a couple of positions on the national committee were contested. (Normally all nominations are unopposed.) This was the result of internal strife and aggravated tensions.

Lesley was caught in the middle of all this. She was putting all her energy into WBA matters, editing the newsletter, talking to dozens of whistleblowers, writing to politicians and sorting membership lists. In the midst of this, she had her own whistleblowing case and in March 1996 her son Charlie was born. Even if WBA affairs had been calm, Lesley would have been overwrought with everything she was trying to do.

Lesley had a tendency to become upset. She became angry when she felt she was being criticised. How much she contributed to interpersonal tensions is hard for me to say. In any case, she was an active player in the internal battles and eventually it all became too much.

In August 1997, Lesley told me that she was “past burnout” and had been for some time. She was fed up with WBA politics, thought the NSW branch meetings were a clique, and was fed up with “whingeing whistleblowers” who called her. When campaigners start turning on those they are trying to help, it is indeed a sign of burnout.

By the end of the year, Lesley had pulled out of WBA, and I wrote her a formal letter on behalf of the national committee thanking her for her contributions. In mid 1998, she gave me comments on the draft of my book *The Whistleblower's Handbook* — many of which I reproduced in the text — but thereafter I seldom heard from her.

I learned from others that she had been a heavy drinker, indeed had been one for quite some time. Later, she ended up living on the street with

Charlie. In retrospect, perhaps I should have done more to keep in touch. It was one of the features of those years that everyone who was active in supporting whistleblowers was overloaded. There were simply far too many people needing assistance and all too few able to help. It is sad that in WBA we had insufficient capacity to help everyone who needed it, including those like Lesley who poured enormous energy into the cause.

Brian Martin is vice president of Whistleblowers Australia and current editor of *The Whistle*.

From the National Director

Lesley Pinson

From *The Whistle*, June 1996.

Lesley was the editor. This is an extract from her report as national director of Whistleblowers Australia.

The CJC and the ICAC

The Criminal Justice Commission (CJC) in Queensland is in the process of finalising a “Guide to Whistleblowing in Queensland.” This document has been prepared without any consultation with WBA or the Whistleblowers Action Group in Queensland. A draft copy of this guide which has been forwarded to the WBA is 45 pages long! Although it usefully identifies many of the pitfalls experienced by WBs [whistleblowers], it is so complicated that I imagine it would most likely put any “would be” WB off from proceeding. Since I have not yet met a person who woke up one morning and decided to be a WB, I also wonder how this information would get to anyone before they “blew the whistle.” Basically you need to speak to a lawyer before speaking to anyone else and nearly everyone leaves seeing a lawyer until it is far too late.

The ICAC in NSW in its April/May Newsletter focused entirely on the “Whistleblowers Law.” Some articles focused heavily on internal complaints handling procedures. Upon reading these it would be easy to infer that as long as a government body had set up an internal reporting channel, an

employee would have to go there and could no longer go straight to the ICAC. Is the ICAC going to do itself out of business I wonder?



INDEPENDENT COMMISSION
AGAINST CORRUPTION
NEW SOUTH WALES

In fact, the focus of both the ICAC's and the CJC's publications is on the way in which a complaint is made. If a complaint is not strictly made in accordance with all laid down procedure it is likely that (a) the issue being complained about will be ignored and (b) the aspiring WB will not be protected. This may leave WBs in the future in the position of not only having to defend themselves as they currently do against organisations' attacks against their character, reputation, sanity and competence, but also having to defend the way in which they made a complaint.

I can almost visualise a situation where a person would not be protected by law because they went to the ICAC first when they should have gone internally. Organisations could not only try to "shoot the messenger" but would also try to "shoot the way the message was delivered"!

Since the WBA is still not aware of the ICAC ever taking any action to protect a WB from detrimental action, or acting to stop any organisation from taking detrimental action, this is not as perverse as it sounds.

Currently a WBA member is in the Industrial Relations Court claiming unfair dismissal and arguing for reinstatement. Although under Industrial Relations law it is illegal to dismiss anyone for making a complaint to a competent authority, the WB's (ex) employer, whilst being unable to provide any reason for the dismissal, is arguing that the WB should not be reinstated because they made allegations of corruption about senior managers. Incredibly, management concurred with the WB's initial allegation. Unfortunately they then did the wrong thing to correct the situation complained of. The ICAC, despite

acknowledging the receipt of a Protected Disclosure from the WB has done nothing to stop the dismissal, to investigate the original complaints or the subsequent actions taken by management, or to stop the organisation from spending thousands of dollars of public money to try to find reasons why the WB should not be reinstated. No answer has been determined as yet by either the court or the ICAC as to why the WB was actually dismissed, although we have our suspicions!

Meanwhile the WB is contemplating a situation where they might have to sell their house. Legal costs are escalating daily while the (ex) employer sifts through the WB's 17 year career in its desperation to find any instances where the WB might have made a mistake!

Given this situation, members of the NSW Branch of WBA are wondering why the ICAC is conducting public and private hearings into the demotion, dismissal and subsequent reinstatement of the Director General of Community Services. After all, he still has a job, has made no other allegations of corruption that the public are aware of and is having all his legal costs paid for out of the public purse!

Interestingly, the ICAC was proposing to conduct an inquiry into allegations made by Vince Neary but at the last minute advised that these could not proceed due to a lack of resources. Strangely this occurred roughly at the same time as the ICAC decided to conduct its hearings into the Metherill affair which led to the downfall of Premier Greiner.

It seems that if you are a politician or a senior public servant you can use the services of the ICAC to investigate your conduct and/or your grievances. The rest of us are lucky if the ICAC even responds to our letters and if we are dismissed subsequent to referring matters to the ICAC, we have to pay for our own legal costs in the Industrial Relations Court.

- Policeman Karl Konrad is fined \$1000 for daring to suggest that the police need training in alternatives to firearms more than they need training in the better use of guns.

- Albert Langer goes to gaol for suggesting that people place the major

parties equal last on their ballot papers.

- School teachers are threatened with dismissal if they comment publicly on what is being done to the education system.

- Nurses are advised by their union not to speak to the media for fear of dismissal.

- The Victorian Police have refused to answer questions from the "7.30 Report" at media conferences.

- The Premier and some Ministers will not appear on the "7.30 Report" and maintained a long term ban of the *Sunday Age*.

Most if not all WBs would share the concerns of members of the FSC [Free Speech Committee] about these and other issues such the defamation laws and freedom of information legislation. The FSC recently merged with the Queensland-based Voltaire Institute which was set up in 1992 with the philosophy "I disagree with what you say but I defend to the death your right to say it." The FSC can be reached at PO Box 55-s, Bexley South, NSW 2207. Full membership is \$20 and concessional is \$10. Phone contacts are NSW 02 502 4806, Victoria 03 9529 6192 and Queensland 07 3298 5219.



Page 1 of *The Whistle*, No. 3, January 1996, the first issue with the whistle icon chosen by Lesley

Staying together

Jane Cole

WHISTLEBLOWERS are the guardians of society's morals and should by rights be lauded as heroes instead of suffering persecution and ridicule. They make great sacrifices and suffer great wrongs in their efforts to put right what they perceive as immoral or corrupt behaviour. Whistleblowing is often an act of social, financial and professional suicide. Many, perhaps most, whistleblowers don't realise they are actually blowing the whistle till the reprisals start in earnest. Till then they thought they were just doing the job expected of them, reporting problems up line management.

What is often overlooked is the trauma that is suffered by the whistleblower's spouse and children who suffer a similar fate for reasons they barely understand and were not of their doing. They suffer the same social and financial burdens and also have to deal with a spouse or parent who is now suffering the psychological symptoms that come from the sustained and unjust retaliation by the organisation. One can understand if some spouses are angry to have been placed in such a horrible position by the whistleblower, without consent or even awareness.

The rate of divorce/separation is well above the national average and that in itself brings a whole other swathe of issues such as homes being divided, children moving school, loss of friends, etc.

Too often we hear of the whistleblower feeling abandoned just when they need support and conversely the family feeling that this pile of problems was not of their making.

Some whistleblowers become withdrawn and fixated on the injustice of the situation they are in. They go over the situation repeatedly in their mind. The psychological effect of dealing with a situation which is both unjust and insoluble leaves them with no reserve and no resilience. They show symptoms which are common to a number of psychological diagnoses, for example adjustment disorder, anxiety, depression and post traumatic

stress disorder. The continuous "rumination" (going over thoughts, again and again, in one's head) leaves them "unavailable" and "absent" to their partners and children. And the subject of the whistleblowing becomes the only subject they constantly talk about.



Talk about the dog, not whistleblowing

The whistleblower's support person certainly needs support but perhaps more importantly, the couple/family as a unit need strategies to help them ride the storm and stay intact as a family. So what to do?

The whistleblower needs to be available to the family, find out about their day, join in the family conversation, especially when children are involved as they too need inclusion. Meals are the ideal time for this communication, as they can be "whistleblowing no go zones" where family matters can be discussed, school and work days reported on.

As a couple, the whistleblowing issue (irrevocably part of life now) needs to be discussed, not hidden and this is probably the tricky bit.

It requires the partner to listen without recriminations, realising why the whistle has been blown, and for the whistleblower to know the impact this issue is having on their lives. It deserves honesty. It can be incredibly hard to do but if everyone is on the same page and fighting the same battle together (and the key word here is together), relationships can remain intact, even become stronger.

The whistleblower needs to explain the legal issues as told by their solicitor, explain any medical conditions now arising, especially in the area of mental health. It is a lot easier to fight together when you both have the same information.

Social events can be a minefield as again the conversation very easily

revolves around whistleblowing issues. Steering conversations gently in other directions can become an art form! Sometimes clueing up friends and letting them introduce topics of conversation well removed from the whistleblowing issues can be helpful.

Linking with other whistleblower families may prove useful, as generationally, people are facing the same basic issues, and support from those who are at the same life stage whilst treading the same path can be empowering.

Maintain whatever spiritual life you enjoy; it offers a lot of support emotionally.

Look for the good. This can be hard to do at times but look for all those qualities that first attracted you to each other, they're still there, just a bit beaten and bruised! Find ways to compliment your partner and tell them how much you appreciate and need them.

Work on finances together. It may mean role reversals, cutting back on things, and finding new ways to do things. For example, there's a whole lot of cheap or free activities available. Find them and use them — a great project for the kids!

Stay healthy, exercise, even if it's just a walk around the block. Keep up any sporting activities as either player or spectator, discover the garden again!

Find and develop a new hobby. This gives the mind something else to occupy it and provides "me time", a great respite from the issues at hand. It brings new conversation into the house and again a time to put whistleblowing on the back burner for a while.

Life will never be the same but at some point it will be as good, if not better.

If nothing else matters, if nothing else gets done, the greatest key to whistleblowing survival is *two-way communications*.

As the amazing Stephen Hawking once said "Intelligence is the ability to adapt to change." So I guess we're quite a bright bunch!

Jane Longhurst's husband is Michael Cole, a whistleblower.

That Burke quote

Kim Sawyer

EDMUND BURKE is frequently quoted as saying “All that is needed for evil to prosper is for men of good will to do nothing.” Some time ago a colleague brought to my attention that Burke probably didn’t actually say it. The Irish-born Burke became an English statesman, a member of the House of Commons well known for his speeches, his philosophical writings, and his perpetual references to good and evil. The saying attributed to Burke sounds like Burke, looks like what Burke may have written, but it is not verbatim Burke. Rather, it is probably a pseudo quote, a term used by Martin Porter in a survey of “All that is necessary for the triumph of evil is that good men do nothing” at <http://tartarus.org/martin/essays/burkequote.html>.

While Burke may not have uttered these words attributed to him, he often spoke in similar terms. In a speech to Parliament on 23 April 1770, Burke stated:

When bad men combine, the good must associate; else they will fall, one by one, an unpitied sacrifice in a contemptible struggle.



Edmund Burke

Porter suggests that this speech was referencing the possible rise of the Tories (<http://tartarus.org/martin/essays/burkequote2.html>). There were only two parties in 18th century English politics, the Whigs and the Tories, and Burke was a Whig. Burke may have been imploring his fellow Whigs to unite to defeat their common adversary. Whether that is the genesis

or not, the quote serves a wider purpose of good people opposed to a perceived evil. And it has been used and abused across generations. For example, in 1986 President Reagan quoted Burke in justifying the arming of “freedom fighters” in Nicaragua, and in the invasion of Grenada. The demarcation of good and evil is always in the eye of the one who uses the quote.

Does it matter whether the quote is by Burke? Almost certainly not. After all, the quote commonly attributed to Voltaire “I disapprove of what you say, but I will defend to the death your right to say it” was not Voltaire’s, but Evelyn Beatrice Hall’s. Hall was a biographer of Voltaire who suggested the phrase as representing Voltaire’s beliefs. Quotes are often attributed to people as being representative rather than exact. And quotes often converge to the beliefs of others, sometimes centuries later. The quote that evil triumphs when good people do nothing could have been written by a whistleblower. For it symbolises our struggle when those around remain indifferent. It is a call for regulators to regulate, for politicians to legislate, and for bystanders to stand up rather than stand by.

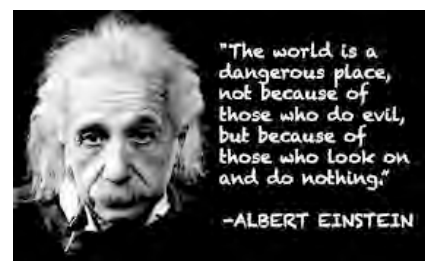
“All that is necessary for the triumph of evil is that good men do nothing” has had a plurality of variations and analogies. One analogy that is important is attributable to John Stuart Mill. Mill was an English philosopher and politician, committed to individual freedom, and opposed to the constraints of the state. Mill would have embraced whistleblowing as the logical response of individuals to the imposition of unfairness. Mill understood the importance of truth, evidence, and indifference in the contest between good and the not so good. In a particularly notable speech, Mill delivered the inaugural address to the University of Saint Andrews on February 1, 1867, an address every academic and Vice-Chancellor should read. The speech is too long to quote in full, but extracts will resonate. For example, on universities:

The proper function of a University in national education is tolerably well understood. At least there is a tolerably general agreement about

what a University is not. It is not a place of professional education. Universities are not intended to teach the knowledge required to fit men for some special mode of gaining their livelihood. Their object is not to make skillful lawyers, or physicians, or engineers, but capable and cultivated human beings.

On truth Mill opined with a paragraph that all whistleblowers would relate to:

The most incessant occupation of the human intellect throughout life is the ascertainment of truth ... And the need we have of knowing how to discriminate truth, is not confined to the larger truths. All through life it is our most pressing interest to find out the truth about all the matters we are concerned with.



And finally there is a quote that could have been written by Burke, but was not written by Burke:

Bad men need nothing more to compass their ends, than that good men should look on and do nothing. He is not a good man who, without a protest, allows wrong to be committed in his name, and with the means which he helps to supply, because he will not trouble himself to use his mind on the subject. It depends on the habit of attending to and looking into public transactions, and on the degree of information and solid judgment respecting them that exists in the community, whether the conduct of the nation as a nation, both within itself and towards others, shall be selfish, corrupt, and tyrannical, or rational and enlightened, just and noble.

Mill summarised the problem of indifference as well as any whistleblower

could. Too many bystanders do not trouble their minds with the wrong done in their name. Too many bystanders do not concern themselves with looking into public transactions. Too many bystanders are not worried by the selfish conduct of their nation. Too many are indifferent to the plight of whistleblowers. John Stuart Mill deserves a place in the whistleblowing lexicon.



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

BOOK REVIEW

The fatal line

Reviewed by Brian Martin

ON 16 AUGUST 1974, a parliamentary committee issued a report on the prices of soap powders, otherwise known as laundry detergents. This might not seem all that important, but it was definitely a newsworthy story. The report was critical of the major companies, and it was an issue that affected everyone. Major newspapers covered the story, and television news usually followed cues from the papers.

In Channel 9, in Sydney, Derek Maitland prepared an item for the evening news. Maitland had only worked at the station for half a year, but at the age of 31 he already had long experience as a journalist, having worked for over a decade including jobs in several parts of the world, for example in the Middle East and in Vietnam as a war correspondent. He was relatively new to the culture of Channel 9. What happened on 16 August was a turning point in his life.

Maitland's story was conventional news coverage. The major manufacturers declined to appear, but such refusals were commonplace. Footage of a supermarket and of soap powders was used. The segment was all ready to go. But it never ran.

A key factor was that the soap companies were major advertisers on television stations, and station managers did not want to jeopardise the income flow from the companies. Channel 9 pulled its story. Indeed, nearly the entire commercial broadcasting industry either ignored or suppressed the story. It seemed like collusion.

Maitland ended up losing his job and leaving Australia for a quarter of a century. After he returned, he was Whistleblowers Australia's media officer for some years, during which time there was a flurry of media releases and press conferences, giving WBA great visibility, before Derek moved on to other activities. Now he has written a book, *The Fatal Line*, about the events in 1974.

To contemporary ears, this may sound like a non-issue. Don't commercial media always cater to advertisers? And why should canning of a soap-powder story cause such angst?

For Derek, the issue cut to the core of journalistic integrity. It was also important for the television stations, because he blew the whistle on the suppression and this led to a six-months-long inquiry by the Broadcasting Control Board that exposed the stations' betrayal of their fourth-estate role to serve the public interest.

The Fatal Line is a combination of autobiography and a detailed, almost forensic examination of the suppression scandal. Derek intersperses his recollections of the events with extended extracts from the inquiry, at which various journalists and executives — including media magnate Kerry Packer — were put on the stand and grilled about how decisions were made.

One of the most revealing aspects of the book is its description of journalistic practices of the day. News production was far more primitive due to limited technological capacities. It is necessary to understand journalistic practices because at the inquiry, nearly everyone lied, in one way or another.

One lie was that Derek's story was canned because it was unbalanced due to the companies not appearing. He points out that it was standard practice to run stories even though major players refused to appear, and quotes parts of the inquiry transcript to show how this was brought out.

It was apparent that most producers and managers were doing whatever they could to lay blame on others. Derek points out discrepancies in their testimony. It is hard to say which was worse: the stations' suppression of the story or their dissimulation about the reasons. Derek and highly respected news director John Pemberton lost their jobs but not their self-respect.



Derek Maitland

To read and fully understand *The Fatal Line* requires considerable concentration. There are many figures involved plus numerous details about who said what to whom and exactly when. The detail can be overwhelming, but it is highly revealing. Consider this passage concerning what Derek refers to as "probably the shoddiest betrayal of all in the entire soap saga." Two days after his story was suppressed, he phoned Jim North, the secretary of the Australian Journalists' Association.

Now, speaking with him on the telephone that Sunday, I told him what had happened at Channel Nine, what Chisholm is alleged to have said, what Foell had told me, what Pemberton had said and done, and what I understood to have happened at Channel Ten, without mentioning Willesee of course. I knew something of North's reputation, I had witnessed how nastily and arbitrarily he could treat the very people he

was elected to office time and time again to represent. I expected, at the very least, that he would have advice for Pemberton and me on how to handle the situation we were in until something could be done about it, a union-sponsored meeting with management perhaps, on the following day. We were, after all, dealing with an alleged commercially inspired blackout of important news, something that struck at the core of journalism's code of ethics.

But what North said in reply floored me completely. He said: "Don't be stupid. The networks need money. Go back to work." (p. 56)

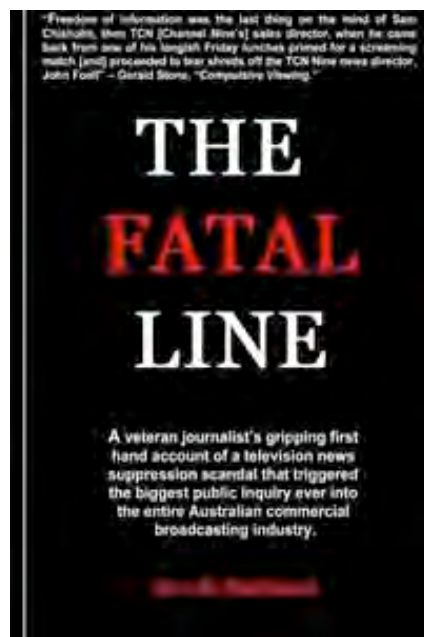
Derek has self-published his book, which is a long-standing and honourable practice followed by quite a few famous authors. Nevertheless, it could have benefited from assistance in layout. I would prefer paragraphs to be indented, for extracts from the inquiry to be distinguished by a different font or some other device, and a list of dramatis personae to be provided. Some photos would assist visualisation of the many players involved.

The text, though, is very well written, as might be expected of a journalist and author of several books. If you stick with it, and figure out the relationships between the key figures, the story becomes ever more engrossing, and the difficulties of challenging powerful opponents ever more apparent.

The Fatal Line is a useful addition to writings on media suppression. It shows how profoundly these long-ago events affected Derek, and more generally how valuable it can be to tell stories of corruption and resistance. No doubt there could be a thousand books written about censorship in the Australian media, but nearly all remain unwritten. *The Fatal Line* should be an encouragement to others to tell their own stories.

Derek Maitland, *The Fatal Line* (Derek Maitland, 2016). Contact Derek at djmaitland1966@gmail.com.

Brian Martin is editor of *The Whistle*.



BOOK REVIEW

Bravehearts: whistle-blowing in the age of Snowden

Reviewed by Brian Martin

EDWARD SNOWDEN is the world's most famous whistleblower. Why did he take his revelations about US government spying on citizens directly to the media rather than go through internal reporting channels? And why did he go to a freelance journalist writing for the British newspaper *The Guardian* rather than directly to the more prestigious *New York Times*?

The answer to both these questions is that Snowden observed what had happened to US national security whistleblowers before him. In particular, Snowden was influenced by the treatment of Thomas Drake, a veteran intelligence officer who raised concerns about a computer system being introduced by the National Security Agency (NSA). So here was Drake, trying to do the right thing to make the country more secure, and what happened to him? US agents went to his home and arrested him at gunpoint. He was threatened with a long prison term. He was charged under the 1917 US Espionage Act. Finally, Drake's efforts seemed to have little impact on NSA operations.

This story is recounted in Mark Hertsgaard's new book *Bravehearts*. Hertsgaard is a journalist and author with decades of experience, and he undertook numerous interviews for this book. He also discovered another crucial whistleblower story previously unknown to either Snowden or Drake.

The NSA, like many other government agencies, has an inspector-general, an internal body meant to deal with whistleblower disclosures. The US Congress had mandated setting up of these inspectorates. Part of the IG's duty is to protect the identity of whistleblowers.

Within the NSA inspector-general's unit was a high-level employee, John Crane, who took his job seriously. He argued long and hard on behalf of Drake, but all to no avail. Crane lost his job. *Bravehearts* is the first publication revealing the story of Crane. Hertsgaard calls him The Third Man.



Mark Hertsgaard

Information about NSA spying on US citizens was available to the *New York Times* before the 2004 presidential election. Rather than publish this dynamite story, the editors sat on it. They only published it in December 2005 because author James Risen was about to reveal everything in his book *State of War*.

Snowden took note. The *New York Times* could not be trusted to break a major story that embarrassed the government or, even worse, implicated high officials in criminality. So Snowden contacted Glenn Greenwald, a freelance journalist who wrote for *The Guardian*, and filmmaker Laura Poitras. Snowden's greatest fear was that his leak would have no impact. His wise choices — going directly to the media, and choosing *The Guardian* as the primary outlet — were based on

learning from what had happened to others before him.

Part of the story of Drake involves the Government Accountability Project (GAP), the US's most prominent whistleblower advocacy organisation. Hertsgaard has long had connections with GAP, for example writing stories about whistleblowers supported by GAP. In *Bravehearts*, Hertsgaard provides a revealing account of the founding and development of GAP, highlighting the role of Tom Devine, for decades the key figure in the organisation. This is the most engaging treatment of GAP I've read.

Hertsgaard describes GAP's approach:

In brief: hear what a potential whistle-blower has to say; investigate the allegations rigorously ("We're a small NGO going up against rich and powerful corporations," said Clark [Louis Clark, GAP president], "so we can't afford to be wrong"); counsel the potential whistle-blower on the likely consequences of speaking out, including losing one's job, being attacked in the media, and other forms of retaliation. If the whistle-blower still wants to go ahead, seek out journalists who might report the story. Accumulate safety in numbers by alerting relevant activists, civic groups, and other possible supporters about the whistle-blower's revelations. Then press Go. (p. 72)

In a number of ways, GAP is quite different from Whistleblowers Australia. GAP has an annual budget of several million dollars whereas WBA's annual income is less than \$10,000. GAP advocates on behalf of whistleblowers, using the legal system but typically harnessing the power of the media, but is highly selective in choosing cases to take up. GAP, despite its resources, can pursue only a small percentage of cases that come its way. WBA, in contrast, does not advocate on behalf of individuals but rather encourages whistleblowers to develop the skills to pursue their own cases.

Most of *Bravehearts* is about national security whistleblowers. Hertsgaard also discusses some other GAP campaigns, for example on nuclear power safety. His book paints

as positive a picture of whistleblowing as any reader could ask for. Hertsgaard describes in simple and direct language the motivations of whistleblowers, the predictability of reprisals, the failure of official channels and the value of media coverage.

The story of John Crane, The Third Man, is important in showing that whistleblowers may have supporters within the system, yet never know it. The system as a whole is hostile to whistleblowers, to be sure, but it is worth knowing that some insiders are supportive. But do not underestimate how difficult life can be for whistleblower supporters on the inside. Even when laws seemingly protect whistleblowers, the reality may be quite different, and this is a big problem.



Devine saw the problem as systemic, rooted in power relations and the clash of institutional interests. "Whether it is a government agency or a private corporation, institutions respond to whistle-blowers with the organizational equivalent of animal instinct," he told me. "They strike back. And the scope and intensity of their retaliation is directly related to the degree of threat that the whistle-blower is perceived to pose. The more significant a whistle-blower's disclosures, the greater the perceived need to take out the threat." (pp. 135–136)

The overall message of *Bravehearts* is that if you want to make a difference, it is important to learn from those who went before. That's what Snowden did. Although he has paid a huge price, he has also had a huge impact, and that is something to which future whistleblowers can aspire.

Mark Hertsgaard, *Bravehearts: whistleblowing in the age of Snowden* (New York: Skyhorse, 2016)

BOOK REVIEW

Vaccine whistleblower: exposing autism research fraud at the CDC

Reviewed by Brian Martin

THE POTENTIAL health hazards of vaccination are a controversial topic, and nothing seems more controversial than alleged links between vaccination and autism. The medical research community stands fully behind the safety of vaccination, citing numerous studies showing that adverse reactions are rare and that there is no link with autism. Yet critics continue to raise the autism connection, pointing to various studies that suggest a positive link.

In this heated issue, whistleblowing is especially contentious and the risks of being a whistleblower unusually great. Dr William Thompson is an experienced researcher working at the US Centers for Disease Control and Prevention (CDC), specialising in vaccine safety. He is the author or co-author of several key scientific papers commonly used to say that vaccination does not cause autism. Yet Thompson kept a guilty secret. He believed that one of his key articles did not tell the full story: it had omitted a finding of increased autism rates in African-American boys following the MMR (measles, mumps and rubella) triple vaccine. One of the adjuvants (non-vaccine components) in the MMR vaccine is thimerosal, containing mercury, and mercury had long been named as a suspect for causing health problems.

Thompson's key scientific papers were published in 2004 and 2007. Years later, Thompson began having confidential telephone conversations

with Dr Brian Hooker, who had been researching vaccination connections with autism. In the course of these conversations, Thompson revealed what he believed was research misconduct: important findings had been suppressed. He said he was ashamed of his participation.



William Thompson

Without Thompson's knowledge, Hooker recorded four of their conversations, and then went public about what Thompson had said. Thompson applied for status as a whistleblower. Indeed, in the course of his conversations with Hooker, Thompson decided to seek legal advice, so actually he was moderately well prepared for the onslaught following the revelations about his dissenting scientific view.

The book *Vaccine Whistleblower* documents the saga, which is still ongoing. Most of the book is a transcript of the four recorded conversations, and this material is both tedious and informative. It is tedious because the conversations, like oral testimony, are filled with extraneous material, ranging from ums and ahs to episodes of thinking out loud. The key parts of these conversations could be summarised in a few pages, and that is exactly what the author Kevin Barry does. The transcripts are useful for a couple of purposes. They provide the context for Barry's summaries, for those who want to check. They show, in a way that a summary cannot, Thompson's feelings about the behaviours he witnessed. They also give a sense of Thompson, responding to Hooker's queries, reflecting on his behaviour and gradually opening up to the possibility of going public.

DR. THOMPSON: So, I, you know, I told Jack that he was going to be first author; I said, "Because you guys are outside the CDC, we'll have more leverage, 'cause ... You know, you will have fewer constraints than I will."

DR. HOOKER: Right.

DR. THOMPSON: And I actually said, "If it gets really crazy, I'm willing to drop off as the coauthor and let you guys just publish because this was the public youth dataset."

DR. HOOKER: Okay.

DR. THOMPSON: So, anyways, we did the whole thing; we wrote the manuscript; we initially had pretty strong wording, like what you're saying ...

DR. HOOKER: Right.

DR. THOMPSON: ... about the association. And then it sat in clearance for a year, and people just hammered away at the paper and watered it down more and more and more. So, you got the manuscript you ended up with, which is the published manuscript — not the published; you ended up with the final, cleared manuscript with just the most, you know, whitewashed discussion ever." (pp. 80–81)

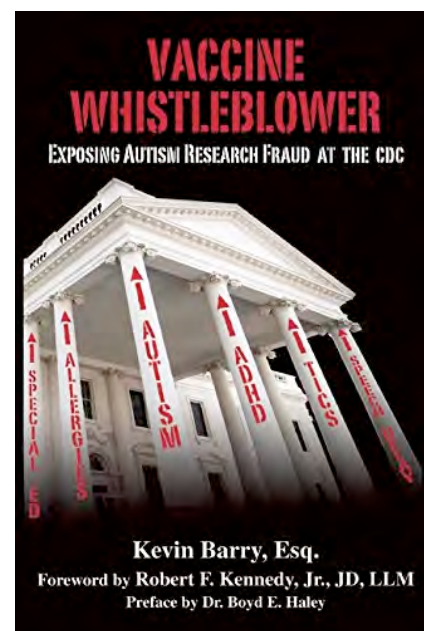
Hooker's recording of conversations without Thompson's knowledge is questionable. This is not the usual way whistleblower revelations reach the public. More commonly it is whistleblowers who covertly record the conversations of bosses and co-workers involved in nefarious activities. In both cases, though, the argument can be made that exposure serves the public interest and justifies the betrayal of trust involved in covert recordings.

It is a sign of the great interest in the vaccination controversy that a book could be published based on covertly recorded conversations. Author Kevin Barry provides an executive summary of the calls and a series of short chapters on the significance of the transcripts and implications for action.

Because the vaccination debate is so polarised, so likewise is discussion about Thompson. A look online will reveal reviews of *Vaccine Whistleblower* that laud Hooker and Thompson and others that fiercely condemn

them and dismiss Thompson's concerns. The clash over vaccination is so vehement that it is difficult to obtain a balanced view of the role of whistleblowing in the saga.

Thompson turned over 100,000 pages of documents about research on vaccine safety to a member of the US Congress, but it seems unlikely Congress will hold hearings. An alternative, in the tradition of WikiLeaks, would have been to put the documents on the web for everyone to read. However, few will ever read volumes of original documents. For every whistleblowing issue, there is a vital role for journalists, researchers and campaigners who publicise the story. The book *Vaccine Whistleblower* is part of this process.



Kevin Barry, *Vaccine whistleblower: exposing autism research fraud at the CDC* (New York: Skyhorse, 2015)

The high price of being a whistleblower? I've seen it up close

Adele Ferguson
Sydney Morning Herald,
7–8 May 2016, pp. 28–29

OVER THE PAST three years, my stories at Fairfax Media and the ABC's *Four Corners* covered serious failures and misconduct from our biggest companies.

Household brands such as Commonwealth Bank, National Australia Bank, Macquarie, IOOF and 7-Eleven have broken our trust and ruined the lives of thousands of people.

Sadly, such things will continue to happen without a serious change in the culture of these companies, better laws and penalties and a stronger backbone from our corporate regulator to use the powers that it has.



Adele Ferguson

This is now an election issue with Labor promising a royal commission and the Liberal Party against it. With the polls showing the majority of Australians are in favour of a royal commission, politicians need to remember it doesn't matter if you're from the left or right, voters from both persuasions have been victims.

None of these stories would have come to light without the brave contribution of whistleblowers. Without them, the bright light we shone on the financial planning arm of CommBank, systemic wage fraud at 7-Eleven and misconduct at CommBank's life insurance arm CommInsure could never have taken place. We and the public owe them an immense debt of gratitude.

But for some perverse reason, whistleblowers are often portrayed as lonely and disgruntled employees who

spilled the beans out of malice.

In 1971 Harvard-trained lawyer Ralph Nader, who blew the whistle on the US car industry, told a conference in Washington DC that whistleblowers were seen as "squealers," "stool pigeons" and "informers" who "rat-ted" on their bosses.



Consumer advocate, whistleblower and former political candidate Ralph Nader.

Photo: AP Photo/J. Scott Applewhite

As well as wearing a "badge of shame," whistleblowers were often sacked, bullied or sidelined.

This is still the case in Australia.

Jeff Morris, who was a financial planner at CommBank, is one of those people. He came to me in March 2013, a week after I had been served with a subpoena from billionaire mining magnate Gina Rinehart to reveal my contacts.

Here I was going up against Rinehart, a major Fairfax shareholder at the time, and about to take on the biggest bank in the country.

Jeff came to me after he and two other whistleblowers had gone to the corporate regulator to expose forgery, fraud and a cover-up of management in the bank's financial planning arm.



Jeff Morris. Photo: Eddie Jim

What was exposed was an aggressive sales culture in the bank, which encouraged its planners to take risks with other people's money while turning a blind eye to practices that may have amounted to criminal acts. Signatures

were forged, documents doctored and victims given minimal compensation and forced to sign confidentiality agreements.

Exposing wrongdoing in this division proved that the bank's ruthless profit-first culture was widespread. A dying man, Noel Stevens, was refused a life insurance payout after being talked into swapping from one that was always guaranteed to pay him out. The switch was made so that the teller and the planner could earn a commission. The bank fought the action but eventually lost, with the judges saying the bank had been "misleading and deceptive" in their scathing judgement.

The joint investigation with *Four Corners*, "Banking Bad," showed how Don Nguyen, a notorious financial planner at the CBA [Commonwealth Bank of Australia], was being rewarded inside the bank despite management knowing he was putting clients' money at risk. Dodgy Don was allowed to resign in 2008 and has so far received hundreds of thousands of dollars from income protection insurance paid by CommBank. We tracked Don down at his family's dry cleaning business where he blamed lax oversight for his actions.

CBA promotes itself as a trusted institution which puts the interests of its clients first. The joint investigation exposed the ugly truth behind this facade — a hunger for profits which destroyed lives and a culture of cover-up that continues to this day — to avoid exposure at all costs.

Astonishingly, the corporate regulator, ASIC, would take 16 months before it officially investigated and when it did the bank embarked on a wide scale witchhunt for the leakers.

It is hard to imagine how stressful that would be. All three whistleblowers were interviewed by CBA Group Security in an effort to identify the source of the leaks.

One of the three whistleblowers died in his sleep at the age of 35 after leaving the company.

A second remained anonymous but suffered considerably from the atmosphere of suspicion and intimidation and also left the company.

Jeff Morris remained on his own in

this hostile environment in an effort to continue feeding information to ASIC. After becoming aware of a possible death threat and receiving no assistance or protection from the regulator, he was eventually diagnosed with post traumatic stress disorder.

This also had an impact on his family. Jeff's children were only two and four when he made the fateful decision to become a whistleblower. The full extent of his sacrifice became apparent one night when he came home to an empty house. Eventually, his position in the company was made untenable. In 2013 he quit the bank.

Fairfax Media first published Jeff's story in June 2013. It triggered a senate inquiry that recommended a royal commission into CommBank on the basis that the regulator couldn't be trusted to do the job properly. CommBank staved off a royal commission by agreeing to set up a compensation scheme and writing to hundreds of thousands of customers offering to review the advice they had been given.

Jeff has now dedicated his life to changing the financial services culture. He has appeared at many senate hearings, advocated strongly for a royal commission, and helped victims successfully fight the banks for compensation — sometimes for free and sometimes for a fee.

Jeff has also been a mentor to other whistleblowers. But he says of the potential whistleblowers he talks to, very few will go ahead and pay the high personal price to do the right thing under the current system.

Taking on the financial services sector is fraught. The banks play tough using all their legal and commercial might. Brutal put-down techniques are used to intimidate journalists into not covering some controversial issues. Journalists who write something negative about the banks are denounced to their editors as anti-business.

Bank executives, public relations personnel and lobbyists have been in overdrive using "back channel" techniques to confuse and misdirect politicians and the media. Off-the-record whispering campaigns about Jeff Morris to some journalists and politicians have been a disgrace. These started when the first story ran three years ago and have continued to this

day.

The most recent was around the time CBA announced that it aspired to being Australia's most ethical bank. The bank, having agreed to pay Jeff Morris's advocacy fees for some victims he was representing, tried to portray it differently. The implication was that he was an extortionist when in fact he was charging for services rendered, a far smaller fee than most lawyers charge.

But Jeff isn't the only whistleblower to suffer a smear campaign.

An IOOF whistleblower, inspired by Jeff Morris, decided to take his concerns to the company instead of ASIC. Big mistake.

IOOF is an ASX100 listed financial services company with thousands of shareholders and customers. The IOOF expose I did with a colleague revealed insider trading, cheating on exams that were supposed to be training staff in ethics, financial advice given without proper educational credentials, misrepresented performance figures to get customers to invest in IOOF funds, and faulty research reports that included baseless buy and sell stock recommendations.

An employee who reported the scandal to the company, hoping to make a difference, was bullied, sacked, and told he was vindictive — and not a whistleblower!

He then came to me with thousands of documents. So together with a colleague, we sorted through the maze of lax compliance inside IOOF.

The smear campaign that followed was disgraceful. I received an email from a senior representative at IOOF and my jaw dropped: it said my "so-called whistleblower" was a black-mailer and had threatened to kidnap the children of several staff members.

The email went on: you have been sucked in by a person who has mental problems and in doing so you have grossly abused the privileges given to journalists to report fairly.

My colleague and I met the IOOF officer who made the accusations against the whistleblower. He had no proof of any of his allegations.

Its the most common tactic — to discredit the whistleblower to try to detract attention from the main game: misconduct.

The IOOF whistleblower hasn't got

a hope in hell of getting a job in the industry. His reputation has been destroyed. Was it worth it, I asked him just the other day?

He said a few times he had thought about that question and if he was placed in that situation again. "I would go straight to the media and not to the company. That's the regret."

He is also disappointed with the regulator. He said he had been contacted once for a 35-minute chat and that was only after he sent an email to the chairman Greg Medcraft and Cc'd me in it, complaining that nobody had contacted him or had asked about the 59,000 documents or how to navigate them. He is still waiting.



ASIC chief executive Greg Medcraft speaks at a Walkley lunch with Adele Ferguson in Sydney in 2014. Photo: Ben Rushton

Another whistleblower who I have dealt with is Dr. Benjamin Koh, who was the chief medical officer at CommBank's life insurance arm CommInsure. When he joined CommInsure trade magazines wrote him up as a big coup for the bank, due to his seniority and credentials.

He opened a Pandora's box into the \$44 billion life insurance industry when he exposed how sick and dying people were being treated by CommInsure. Some had their claims delayed for years, some were denied on the basis of medical definitions that were out of date. Employees at CBA claiming on their life insurance policy weren't immune. One employee, Helen Polydropoulos, had multiple sclerosis and was medically retired by the bank. When she lodged her claim she was knocked back on the basis she could work. She fought for four years with mounting legal fees but was paid out after she appeared on *Four Corners*.

Dr Koh could see what was going on inside the insurer and decided to speak up. He alleges claims managers were cherry picking doctors or leaning on doctors to deny claims. In the case

of victim Evan Pashalis he was terminally ill, yet they gave him the runaround and denied him, until he appeared on *Four Corners*.

Dr Koh decided to speak out for the greater good. It is a measure of his courage that despite being warned about the likely consequences for himself he still went ahead. It was very emotional for him. I remember him saying to me a few nights before *Four Corners* went to air "I have put my life in your hands". That sentence has stuck in my brain!

CommInsure was one of the biggest challenges of my career. As I was dealing with Dr Koh, I knew if this story was to have an impact I needed to get him to speak out on the record. Having the chief medical officer speak out about wrongdoing would be more powerful than an anonymous employee. It wasn't easy. He didn't want to be seen as a hero and taking on a big bank isn't for the faint hearted.

His speaking out has had massive ramifications. The bank has paid out the victims on *Four Corners*, it has set up a panel to review complex claims, ASIC is investigating the industry and most importantly it has played a key role in the federal opposition's call for a royal commission into the sector.

The banks have also come out and said they will review whistleblower policies and pay compensation.

When I think about the stories I have covered and the role of the whistleblowers an interesting pattern emerges. Jeff Morris went to ASIC and was thrown to the wolves and left to negotiate his own exit from CBA. The IOOF whistleblower went to the company and was sacked and smeared. Dr Koh went to the company as well, and he too was sacked and his professional integrity impugned.

The ones who suffered the least were the 7-Eleven and NAB [National Australia Bank] whistleblowers. Both had decided to go straight to the media to tell their story.

The 7-Eleven whistleblower emerged when I was half way through filming with *Four Corners*. It was a story about systemic wage fraud against foreign students on visas, with some paid as little as \$5 an hour. The investigation showed how the business model of 7-Eleven forced many of the franchisees to underpay workers to

make ends meet.

After writing to 7-Eleven for an interview, management held a meeting with staff to warn them that *Four Corners* and Fairfax Media were about to do a hatchet job. One employee decided to help. He provided internal documents that showed willful blindness by head office and agreed to go on camera in disguise. He said all stores were underpaying workers and the company knew.

When the story came out, it had an immediate impact. 7-Eleven announced an independent compensation scheme, changed its business model, heads — including the CEO and chairman — have rolled, and the company has agreed to fix up its compliance systems.

It still has a long way to go but hundreds of foreign students have received more than \$12 million in back pay. It has changed some of their lives and empowered them. They feel the media and the public cares.

The whistleblower at 7-Eleven, who went on *Four Corners* in disguise, managed to keep his job.

I spoke to him just recently and he has no regrets about going to the media. He feels sorry for the plight of the other whistleblowers who went to the company or ASIC first.



Michael Smith, 7-Eleven chairman, and Russell Withers, 7-Eleven owner, appear before a Senate inquiry at Parliament House in Canberra on 5 February 2016. Photo: Andrew Meares

When the prime minister spoke at Westpac's birthday party recently, he said more whistleblowers should speak up. Yes, I agree, they should, but he needs to recognise that until laws are changed, many won't. Whistleblowing laws, similar to shield laws, lack teeth and uniformity. No one has ever been prosecuted for victimising a corporate whistleblower in Australia.



Prime Minister Malcolm Turnbull and Westpac Chairman Lindsay Maxsted at a lunch in Sydney on April 6, 2016. Photo: Janie Barrett

In the US, a reward system operates, allowing whistleblowers to earn up to 30 per cent of the money collected from penalties or legal action against government fraud. In 2014, whistleblowers received \$435 million.

As I talk, three Frenchmen, one of them a journalist, who is a member of the International Consortium of Investigative Journalists, have just finished a trial in a Luxembourg court over leaked documents known as the Lux Leaks scandal which lifted the lid on widespread tax avoidance by some of the world's biggest companies. The three whistleblowers face prison or a massive fine for releasing confidential information from PricewaterhouseCoopers.

One of the whistleblowers, Antoine Delatour, a former auditor for PwC, said he acted in the public interest. Delatour copied confidential tax files of some of the biggest named companies while he was working at PwC.

He is seen by many as a hero. Last year the European Parliament presented him with the European Citizen Award for his whistleblowing exploits — one of 47 awarded each year.

When you think of the big exposes of the past few years, financial scandals, the Panama Papers, Leighton Holdings and Unaoil, none would have come to light without the help of a whistleblower.

The transformation of a whistleblower from stool pigeon and pariah is a welcome change. But we still have a long way to go. So too does the conversation about what motivates them. Do they have to be pearly white? At the end of the day, shouldn't their motivation be irrelevant?

Thanks to whistleblowers, the debate about a royal commission into banks has been put firmly on the table.

Their revelations have also put the spotlight on the regulator and high-

lighted its shortcomings. In most cases it has taken the media to expose corporate wrongdoing, not the corporate regulator.

The government says ASIC is the tough cop on the beat. It says it has greater powers than a royal commission.

In the past couple of weeks the government has increased ASIC's budget and lifted its powers. This sounds good in theory, but the extra money is merely restoring what was ripped out of it in the past couple of years. The increased funding and powers are only useful if they are actually used — something that hasn't sat well with ASIC. It is trying to do better but it has a long way to go.

Without a royal commission into the financial services sector, one thing is for sure, there will be more scandals and more whistleblowers wanting to do the right thing. But will they come forward under the current system that doesn't protect them, leaves them open to smear and innuendo and doesn't compensate them for the damage to their careers? Who could blame them if they fail to act in future if we fail now on the royal commission? Not me.

There is one more important point I would like to touch on.

Earlier this year *Guardian* Australian journalist Paul Farrell revealed the Australian Federal Police has a substantial file on him.

The heavily redacted 200-plus page dossier details the quite extraordinary lengths to which the AFP has gone, using new secrecy laws, to identify sources for a story he wrote on asylum seekers.

Whichever way you look at it, state-sanctioned spying on journalists is totally unacceptable, as are lengthy jail terms and heavy fines for taking on issues of public interest.

These laws are a threat to investigative journalism and deter whistleblowers from speaking out.

Once we head down this slippery path there is no telling where it might end.

As our current PM, a former worker journalist, noted: "We are one of the oldest democracies in the world. Our democracy depends on many men and women, on many institutions — all of them vitally important — but none is more important than a free and coura-

geous press ..."

This is an edited version of award-winning journalist Adele Ferguson's speech to the Walkley Foundation's annual Press Freedom Dinner held in Sydney on May 6.

SecureDrop makes leaking to Fairfax safe from metadata capture

Michael Bachelard

Sydney Morning Herald, 3 May 2016



Michael Bachelard
Investigations editor, *The Age*

AUSTRALIAN journalists make a promise to their confidential sources to protect their identity "in all circumstances." But snooping by the Australian government and security agencies under metadata retention laws have made that promise much more difficult to keep.

Today, Fairfax Media hits back.

From today, we are offering whistleblowers two different ways to communicate with our award-winning investigative journalists, confident that it's as safe as possible from prying eyes.

Securedrop: Send us up to 500 MB with unparalleled security

JournoTips: Send us up to 5 MB and chat with journalists easily

The leak of hundreds of thousands of emails from international bribe factory Unaoil, prompting a series of stories by Fairfax Media's investigations unit, as well as the Snowden revelations and the Panama Papers, illustrate the power of public interest journalism when it's armed with strong documentary evidence.

Whistleblowers have also been crucial in stories exposing corporate wrongdoing in 7-Eleven, the National Australia Bank and the Labor Party and unions in recent years.

In all cases, some or all of the sources involved wanted to remain anonymous. On occasion, even the journalists receiving the information did not know who they were dealing with.



Metadata laws deter people from communicating with journalists.
Photo: Phil Carrick

But metadata laws passed late last year mean that phone companies and internet service providers must keep details of communications between people for two years, and this information can be obtained, sometimes without a warrant, by a range of law enforcement agencies.

Journalists have a measure of protection — agencies must obtain a warrant — but applications for warrants are conducted without the reporter's knowledge and in our defence sit two retired judges, both appointed by the government, who have no background in media law.

In response, Fairfax Media has adopted the SecureDrop platform, a project of the US-based not-for-profit Freedom of the Press Foundation. The system allows both messages and files of up to 500 MB and messages to be passed securely to our investigative team.

It uses an anonymous network, encryption, and a clean operating system so that the information is, and remains, anonymous, from when it leaves the leaker's desktop to when it arrives on our reporters'. Users must download and use the Tor browser before they can submit information — and it's recommended this not be done on the leaker's corporate computers or networks.

The communications trail is wiped routinely so that information does not

exist anywhere for long enough to be searched.

The second solution, called JournoTips by Whispli, will allow more impulsive informants to speak up by securely and quickly passing messages and files to our reporters without the need to enter their personal contact details. They can then converse with them anonymously.

Created originally as a whistleblower system for corporations to allow their people to report wrongdoing within their operations, the system has been modified to allow tip-offs to journalists. The platform encrypts all its communications, and effectively scrubs the IP address of the informant as the information hits platform.

Both methods will be available to users from links embedded in the stories of our investigative reporters, and also on the investigations landing page of Fairfax Media websites.

Read more: look on the web for "Securedrop Fairfax" and "JournoTips Fairfax."

On Ziggy and NBN leaks

Letters to the editor of the *Sydney Morning Herald*, 29 May 2016

As a Turnbull-appointed chairman of the National Broadband Network it is no wonder Ziggy Switkowski prefers to frame the leaking of documents that reflect poorly on Turnbull as "theft" rather than "whistleblowing" ("No apologies for reporting document theft", May 28–29). Now the Australian Federal Police has raided ALP figures in the middle of an election campaign he has to defend it somehow.

He accuses the "thieves" of having an ideological intent, and says that this was not whistleblowing as "whistleblowing usually emerges from concerns about the legality or morality of actions within a company, or unconscionable behaviour inconsistent with company values". But these reasons are not the only grounds for whistleblowing, just the ones he cares to name.

Too busy being outraged by the leak he forgets that the NBN is owned by

the Australian people, and if the information leaked is pertinent to our judgment regarding the direction the government has taken the company then we have a right to know.

The only thing that we should be discussing here is whether the material leaked reflects the true state of affairs or not.

James Manche Dulwich Hill



Ziggy Switkowski

The humbug and audacity of Ziggy Switkowski seemingly knows few bounds. First, who says it was "theft"? What evidence is there to support this claim? A complaint has been made, but no charges have been laid have they? His claim, if not pre-empting any further action, would appear to be him trying to be complainant, judge and jury.

His grievance seems to be at least partly based on his opinion that the documents have been used for "political" purposes — that, of course, should not be a consideration in any investigation as to whether the law has been broken.

Second, very importantly, whatever the veracity of his claim that the company was duty bound to refer the issue to "the authorities", why refer it to the AFP? Why not the usual criminal investigation "authorities" and authorities who deal day in and day out with such "commercial-in-confidence" matters, as this one is claimed to be. This is a seriously bad look. And why would an NBN employee photograph documents, while accompanying the federal police (and the media) on the raids?

Third, no amount of self-interested obfuscation from Switkowski will get him around the substance of the matter: the (controversial) policy, costs and roll-out performance involving our "national" broadband system.

Simon Balderstone Manly

Ziggy Switkowski is kidding himself if he thinks that his opinion piece in the *Herald* justifies the overtly political raids by members of his staff and the AFP on Labor Party figures. Both he and Malcolm Turnbull should wake up to the fact that they are no longer working for independent private companies.

Who is NBN Co in competition with to justify such levels of secrecy? When the public finds out the level of future costs associated with getting rid of the copper wires they are currently connecting into the NBN system, Joe Hockey's and Scott Morrison's inter-generational debt problem will seem like chicken feed.

Norman Pollock Bellmere (Qld)

Ziggy Switkowski's article about the NBN is quite transparent. What he is about is defending the indefensible, the politicised debacle that is a critically required 21st century piece of infrastructure needed to advance the prosperity of Australia and all Australians, not just the privileged few.

Anne Finnane Marlee

Offshore detention whistleblower loses job after condemning "atrocities" of camps

Ben Doherty

The Guardian, 21 June 2016

THE TRAUMA SPECIALIST who condemned the treatment of asylum seekers and refugees in Australia's offshore detention regime as the worst "atrocity" he has seen has had his contract to work on Nauru terminated.

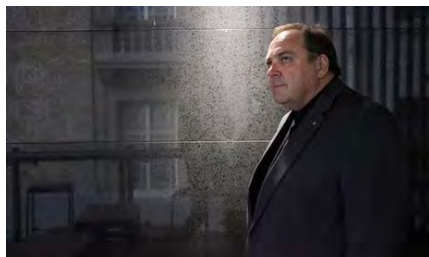
Psychologist Paul Stevenson, whom the Australian government awarded an Order of Australia for his work counselling victims of the Bali bombings, had undertaken 14 deployments to Nauru and to Manus Island in Papua New Guinea. He was due to return to Nauru on Thursday.

But after he spoke publicly to the *Guardian* about his experiences working within Australia's offshore detention regime — describing conditions in the camps as "demoralising ... and desperate" — he was told his con-

tract had been summarily cancelled.

PsyCare, the company through which he was employed to provide counselling to guards working in offshore detention, informed him by email his employment had been terminated.

Stevenson said the news was not unexpected. "But the public needs to hear about the consequences people face for speaking out, and to understand the level they go to in minimising access."



Paul Stevenson

Previous whistleblowers, such as the former International Health & Medical Services director of mental health Dr Peter Young, have also faced serious ramifications for advocating for better care of those held in immigration detention. Police accessed Young's phone records because he had been critical of the detention regime.

The Border Force Act gives the Australian government the power to jail, for up to two years, anybody employed by the department or its contractors who speaks publicly about conditions inside the offshore detention regime, including doctors advocating for better healthcare, or other workers exposing sexual and physical abuse of detainees.

In an extensive interview with the *Guardian*, published on Monday, Stevenson said: "In my entire career of 43 years I have never seen more atrocity than I have seen in the incarcerated situations of Manus Island and Nauru."

"Every day is demoralising. Every single day and every night. And you can work an eight-hour shift, or a 16-hour-shift, or a 20-hour-shift, you can get up in the middle of the night to answer the calls to go down to the camp, and you know it's not getting any better. And it's that demoralisation that is the paramount feature of offshore detention.

"It's indeterminate, it's under terri-

ble, terrible conditions, and there is nothing you can say about it that says there's some positive humanity in this. And that's why it's such an atrocity."

His comments were backed up by more than 2,000 pages of incident reports which showed a litany of self-harm, sexual and physical assaults, depression and violence.

The Australian Department of Immigration and Border Protection, the island security provider Wilson and PsyCare have all refused to answer questions from the *Guardian*.

One of the men incarcerated in the Australian-run detention centre on Manus Island, Behrouz Boochani, asked a direct question of the prime minister, Malcolm Turnbull, on the ABC's Q&A.

Boochani, a Kurdish journalist who fled persecution in Iran and has been recognised as a refugee, asked:

I'm talking to you from Manus prison. Australia exiled me by force three years ago. What is my crime? I am a refugee who fled injustice, discrimination and persecution. I didn't leave my family by choice. Why am I still in this illegal prison after three years?

Turnbull responded that the policy of offshore detention was necessary to maintain Australia's border protection regime and to deter unauthorised boat arrivals.

"It is a tough policy, I grant you that," he said. "It is a harsh policy. But in government and in politics, often you are presented with tough choices.

"A person who has been found to be given refugee status in PNG is able to then settle in PNG. I know, I'm sure, he would rather come to Australia, but that option is not available to him. The people smugglers are out of business, they would love to get back into business, they are itching to get back into business, believe me. Every now and then they test us out. But we have kept our policy firm."

On Tuesday morning Boochani wrote in response to the prime minister, from Manus: "You did not answer my questions because you could not, because you don't have any plan for the future. You are lying to Australian people and playing with Australia's international reputation. I know you will never answer my questions."

Israel: drop latest charges against whistle-blower Mordechai Vanunu

Amnesty International public statement, 10 May 2016

THE ISRAELI authorities should drop the charges handed down two days ago to nuclear whistle-blower Mordechai Vanunu, as well as lifting all of the restrictions still imposed on him, Amnesty International said today. This latest development is illustrative of the pattern of persecution he has faced since he was released from prison 12 years ago after serving an 18-year sentence for disclosing information on Israel's secret nuclear capacity in 1986.

On 8 May 2016, the Jerusalem Magistrate's Court charged Mordechai Vanunu with breaching the ongoing severe and arbitrary restrictions against his rights to freedoms of movement and expression. The charges apparently relate to a meeting he had with two US nationals three years ago; an interview he gave to Israeli broadcaster Channel 2 in September 2015, for which he was already punished that same month; and moving his residence *within* the same building without informing the police.

If Mordechai Vanunu is convicted and imprisoned under these charges, Amnesty International would consider him a prisoner of conscience held solely for peacefully exercising his right to freedom of expression and would call for his immediate and unconditional release.

The Israeli newspaper *Haaretz* quoted the response of his lawyer, Avigdor Feldman, to this latest move by the Israeli state as "a record low ... in its persecution and abuse of Mordechai Vanunu ... I'm ashamed, and whoever filed this indictment should be even more ashamed." Feldman said that the charges are being made in preparation for Vanunu's latest attempt to challenge his international travel ban, which expired recently but was extended by a temporary court order.

Since his release from prison in 2004, Vanunu and his lawyers have fought without success to end the cruel

and unnecessary restrictions which prevent him from leaving Israel, communicating with foreigners — including journalists — without the prior agreement of the authorities, entering or approaching foreign embassies and participating in internet chats, and which require that he notify the police if he moves residence.

In September 2015, Vanunu was put under one week's house arrest and banned from using the internet and communicating with journalists as a punishment for the interview he gave to Israeli Channel 2. According to Israeli newspaper *The Times of Israel*, Channel 2 said the broadcast was pre-approved by the military censor but the police asked to see the full unedited interview. Apparently, the Israeli authorities objected to something Vanunu said during the making of the interview but which was not broadcast. In the interview, Vanunu talked about his motivation to divulge information about Israel's nuclear armoury, his subsequent abduction by Mossad (Israeli secret services) from Italy in 1986 and his marriage in May 2015 to his long-term partner, Norwegian professor of theology Kristin Joachimsen, and his desire to go and live with her in Norway.

The Israeli government's contention that Vanunu's freedom must be so severely curtailed because he poses a threat to national security becomes more and more ludicrous as each year passes. It is widely acknowledged that any information he disclosed to journalists about Israel's nuclear weapons programme is already in the public domain and is in any case 30 years out of date. There is no evidence to suggest he has committed any criminal offence.

The ongoing restrictions against him are arbitrary and contrary to Israel's obligations under international law, particularly the International Covenant on Civil and Political Rights, which prohibits arbitrary interference in the rights to freedom of movement, freedom of expression and freedom of association and protects individuals from being punished again for the same offence. The restrictions are not part of any parole conditions imposed since he served his full sentence.



Mordechai Vanunu

Background

Mordechai Vanunu worked as a technician at Israel's nuclear plant near the southern town of Dimona. After revealing details of the country's nuclear arsenal to *The Sunday Times* he was abducted by Mossad agents in Italy on 30 September 1986 and secretly taken to Israel where he was tried and sentenced to 18 years' imprisonment. According to nuclear physicist Frank Barnaby, who interviewed Vanunu in September 1986 in his role as a consultant to the UK newspaper *The Sunday Times* prior to its publication of Vanunu's revelations, he was motivated by a belief that the Israeli and international public had a right to know about Israel's nuclear weapons programme; and that "he seemed to be acting ideologically."

He was held in prolonged secret detention, in violation of the prohibition of arbitrary arrest or detention contained in Article 9 of the International Covenant on Civil and Political Rights. There are also serious concerns about the secrecy of his trial and the severe nature of the charges on which he was convicted, as well as the 11 years he spent in solitary confinement between 1986 and 2004, which amounted to cruel, inhuman or degrading treatment.

In 2014, Israel's Supreme Court denied a petition from his lawyers to lift his travel ban so he could participate in an Amnesty International event on whistle-blowers, in the UK and attend an event at the UK parliament to which he was invited by 54 members of parliament.

In May 2010 Mordechai Vanunu was imprisoned for three months after being convicted of breaching the restrictions on him by speaking to foreigners and attempting to attend Christmas Mass in Bethlehem. Amnesty International considered him to be a prisoner of conscience.

Leaking as resistance

Edward Snowden

Foreword to

The Assassination Complex

3 May 2016

"I'VE BEEN WAITING 40 years for someone like you." Those were the first words Daniel Ellsberg spoke to me when we met last year. Dan and I felt an immediate kinship; we both knew what it meant to risk so much — and to be irrevocably changed — by revealing secret truths.



Edward Snowden

One of the challenges of being a whistleblower is living with the knowledge that people continue to sit, just as you did, at those desks, in that unit, throughout the agency; who see what you saw and comply in silence, without resistance or complaint. They learn to live not just with untruths but with unnecessary untruths, dangerous untruths, corrosive untruths. It is a double tragedy: what begins as a survival strategy ends with the compromise of the human being it sought to preserve and the diminishing of the democracy meant to justify the sacrifice.

But unlike Dan Ellsberg, I didn't have to wait 40 years to witness other citizens breaking that silence with documents. Ellsberg gave the Pentagon Papers to the *New York Times* and other newspapers in 1971; Chelsea Manning provided the Iraq and Afghan war logs and the Cablegate materials to WikiLeaks in 2010. I came forward in 2013. Now another person of courage and conscience has made available the extraordinary set of documents published in *The Assassination Complex*, the new book by Jeremy Scahill and the staff of the *Intercept*.

We are witnessing a compression of the timeframe in which unconstitutional activities can continue before

they are exposed by acts of conscience. And this permits the American people to learn about critical government actions, not as part of the historical record but in a way that allows direct action through voting — in other words, in a way that empowers an informed citizenry to defend the democracy that “state secrets” are nominally intended to support.



Daniel Ellsberg in 1973.
Photograph: BBC/ITVS/AP

When I see individuals who are able to bring information forward, it gives me hope that we won’t always be required to curtail the illegal activities of our government as if it were a constant task, to uproot official lawbreaking as routinely as we mow the grass. (Interestingly enough, that is how some have begun to describe remote killing operations, as “cutting the grass.”)

A single act of whistleblowing doesn’t change the reality that there are significant portions of the government that operate below the waterline, beneath the visibility of the public. Those secret activities will continue, despite reforms. But those who perform these actions now have to live with the fear that if they engage in activities contrary to the spirit of society — if even a single citizen is catalysed to halt the machinery of that injustice — they might still be held to account. The thread by which good governance hangs is this equality before the law, for the only fear of the man who turns the gears is that he may find himself upon them.

Hope lies beyond, when we move from extraordinary acts of revelation to a collective culture of accountability within the intelligence community. Here we will have taken a meaningful step towards solving a problem that has existed for as long as our government.

Not all leaks are alike, nor are their makers. David Petraeus, for instance, provided his illicit lover and favoura-

ble biographer information so secret it defied classification, including the names of covert operatives and the president’s private thoughts on matters of strategic concern. Petraeus was not charged with a felony, as the Justice Department had initially recommended, but was instead permitted to plead guilty to a misdemeanour. Had an enlisted soldier of modest rank pulled out a stack of highly classified notebooks and handed them to his girlfriend to secure so much as a smile, he would be looking at many decades in prison, not a pile of character references from a Who’s Who of the Deep State.



David Petraeus in 2010.
Photograph: Kevin Lamarque/Reuters

There are authorised leaks and also permitted disclosures. It is rare for senior administration officials to explicitly ask a subordinate to leak a CIA officer’s name to retaliate against her husband, as appears to have been the case with Valerie Plame. It is equally rare for a month to go by in which some senior official does not disclose some protected information that is beneficial to the political efforts of the parties but clearly “damaging to national security” under the definitions of our law.

This dynamic can be seen quite clearly in the al-Qaida “conference call of doom” story, in which intelligence officials, likely seeking to inflate the threat of terrorism and deflect criticism of mass surveillance, revealed to a neoconservative website extraordinarily detailed accounts of specific communications they had intercepted, including locations of the participating parties and the precise contents of the discussions. If the officials’ claims were to be believed, they irrevocably burned an extraordinary means of learning the precise plans and intentions of terrorist leadership for the sake of a short-lived political advantage in a news cycle. Not a single person seems

to have been so much as disciplined as a result of the story that cost us the ability to listen to the alleged al-Qaida hotline.

If harmfulness and authorisation make no difference, what explains the distinction between the permissible and the impermissible disclosure?

The answer is control. A leak is acceptable if it is not seen as a threat, as a challenge to the prerogatives of the institution. But if all the disparate components of the institution — not just its head but its hands and feet, every part of its body — must be assumed to have the same power to discuss matters of concern, that is an existential threat to the modern political monopoly of information control, particularly if we’re talking about disclosures of serious wrongdoing, fraudulent activity, unlawful activities. If you can’t guarantee that you alone can exploit the flow of controlled information, then the aggregation of all the world’s unmentionables — including your own — begins to look more like a liability than an asset.



Valerie Plame in 2006.
Photograph: Haraz N Ghanbari/AP

Truly unauthorised disclosures are necessarily an act of resistance — that is, if they’re not done simply for press consumption, to fluff up the public appearance or reputation of an institution. However, that doesn’t mean they all come from the lowest working level. Sometimes the individuals who step forward happen to be near the pinnacle of power. Ellsberg was in the top tier; he was briefing the secretary of defense. You can’t get much higher, unless you are the secretary of defense, and the incentives simply aren’t there for such a high-ranking official to be involved in public interest disclosures because that person already wields the influence to change the policy directly.

At the other end of the spectrum is Chelsea Manning, a junior enlisted

soldier, who was much nearer to the bottom of the hierarchy. I was midway in the professional career path. I sat down at the table with the chief information officer of the CIA, and I was briefing him and his chief technology officer when they were publicly making statements such as: “We try to collect everything and hang on to it for ever,” and everybody still thought that was a cute business slogan. Meanwhile, I was designing the systems they would use to do precisely that. I wasn’t briefing the policy side, the secretary of defense, but I was briefing the operations side, the National Security Agency’s director of technology. Official wrongdoing can catalyse all levels of insiders to reveal information, even at great risk to themselves, so long as they can be convinced that it is necessary to do so.

Reaching those individuals, helping them realise that their first allegiance as a public servant is to the public rather than to the government, is the challenge. That is a significant shift in cultural thinking for a government worker today.

I’ve argued that whistleblowers are elected by circumstance. It’s not a virtue of who you are or your background. It’s a question of what you are exposed to, what you witness. At that point, the question becomes: “Do you honestly believe that you have the capability to remediate the problem, to influence policy?” I would not encourage individuals to reveal information, even about wrongdoing, if they do not believe they can be effective in doing so, because the right moment can be as rare as the will to act.



Chelsea Manning. Photograph: AP

This is simply a pragmatic, strategic consideration. Whistleblowers are outliers of probability, and if they are to be effective as a political force, it is critical that they maximise the amount of public good produced from scarce seed. When I was making my decision,

I came to understand how one strategic consideration, such as waiting until the month before a domestic election, could become overwhelmed by another, such as the moral imperative to provide an opportunity to arrest a global trend that had already gone too far. I was focused on what I saw and on my sense of overwhelming disenfranchisement that the government, in which I had believed for my entire life, was engaged in such an extraordinary act of deception.

At the heart of this evolution is that whistleblowing is a radicalising event — and by “radical” I don’t mean “extreme”; I mean it in the traditional sense of “radix,” the root of the issue. At some point, you recognise that you can’t just move a few letters around on a page and hope for the best. You can’t simply report this problem to your supervisor, as I tried to do, because inevitably supervisors get nervous. They think about the structural risk to their career. They are concerned about rocking the boat and “getting a reputation.” The incentives aren’t there to produce meaningful reform. Fundamentally, in an open society, change has to flow from the bottom to the top.

As someone who works in the intelligence community, you’ve given up a lot to do this work. You’ve happily committed yourself to tyrannical restrictions. You voluntarily undergo polygraphs; you tell the government everything about your life. You waive a lot of rights because you believe the fundamental goodness of your mission justifies the sacrifice of even the sacred. It’s a just cause.

And when you’re confronted with evidence — not in an edge case, not in a peculiarity, but as a core consequence of the programme — that the government is subverting the constitution and violating the ideals you so fervently believe in, you have to make a decision. When you see that the programme or policy is inconsistent with the oaths and obligations that you’ve sworn to your society and yourself, then that oath and that obligation cannot be reconciled with the programme. To which do you owe a greater loyalty?



A placard in support of Edward Snowden. Photograph: Mandel Ngan/AFP/Getty Images

One of the extraordinary things about the revelations of the past several years, and their accelerating pace, is that they have occurred in the context of the United States as the “uncontested hyperpower.”

We now have the largest unchallenged military machine in the history of the world, and it is backed by a political system that is increasingly willing to authorise any use of force in response to practically any justification. In today’s context that justification is terrorism, but not necessarily because our leaders are particularly concerned about terrorism in itself or because they think it is an existential threat to society. They recognise that even if we had a 9/11 attack every year, we would still be losing more people to car accidents and heart disease, and we don’t see the same expenditure of resources to respond to those more significant threats.

What it really comes down to is the reality that we have a political class that feels it must inoculate itself against allegations of weakness. Our politicians are more fearful of the politics of terrorism — of the charge that they do not take terrorism seriously — than they are of the crime itself.

As a result, we have arrived at this unmatched capability, unrestrained by policy. We have become reliant upon what was intended to be the limitation of last resort: the courts. Judges, realising that their decisions are suddenly charged with much greater political importance and impact than was originally intended, have gone to great lengths in the post-9/11 period to avoid reviewing the laws or the operations of the executive in the national security context and setting restrictive precedents that, even if entirely proper, would impose limits on government for decades or more. That means the

most powerful institution that humanity has ever witnessed has also become the least restrained. Yet that same institution was never designed to operate in such a manner, having instead been explicitly founded on the principle of checks and balances. Our founding impulse was to say: “Though we are mighty, we are voluntarily restrained.”



CIA headquarters in Langley, Virginia
Photograph: Saul Loeb/AFP/Getty Images

When you first go on duty at CIA headquarters, you raise your hand and swear an oath — not to government, not to the agency, not to secrecy. You swear an oath to the constitution. So there is this friction, this emerging contest between the obligations and values that the government asks you to uphold, and the actual activities that you are asked to participate in.



A US drone used to launch airstrikes in Iraq and Syria. Photograph: John Moore/Getty Images

These disclosures about the Obama administration’s killing programme reveal that there is a part of the American character that is deeply concerned with the unrestrained, unchecked exercise of power. And there is no greater or clearer manifestation of unchecked power than assuming for yourself the authority to execute an individual outside a battlefield context and without the involvement of any sort of judicial process.

Traditionally, in the context of military affairs, we have always understood that lethal force in battle could not be subjected to ex ante judicial constraints. When armies are shooting

at each other, there is no room for a judge on that battlefield. But now the government has decided — without the public’s participation, without our knowledge and consent — that the battlefield is everywhere. Individuals who don’t represent an imminent threat in any meaningful sense of those words are redefined, through the subversion of language, to meet that definition.

Inevitably, that conceptual subversion finds its way home, along with the technology that enables officials to promote comfortable illusions about surgical killing and nonintrusive surveillance. Take, for instance, the holy grail of drone persistence, a capability that the US has been pursuing forever. The goal is to deploy solar-powered drones that can loiter in the air for weeks without coming down. Once you can do that, and you put any typical signals-collection device on the bottom of it to monitor, unblinkingly, the emanations of, for example, the different network addresses of every laptop, phone and iPod, you know not just where a particular device is in what city, but you know what apartment each device lives in, where it goes at any particular time, and by what route.

Once you know the devices, you know their owners. When you start doing this over several cities, you are tracking the movements not just of individuals but of whole populations.

By preying on the modern necessity to stay connected, governments can reduce our dignity to something like that of tagged animals, the primary difference being that we paid for the tags and they are in our pockets. It sounds like fantasist paranoia, but on the technical level it is so trivial to implement that I cannot imagine a future in which it won’t be attempted. It will be limited to the war zones at first, in accordance with our customs, but surveillance technology has a tendency to follow us home.

Here we see the double edge of our uniquely American brand of nationalism. We are raised to be exceptionalists, to think we are the better nation with the manifest destiny to rule. The danger is that some people will actually believe this claim, and some of those will expect the manifestation of our national identity, that is, our

government, to comport itself accordingly.

Unrestrained power may be many things, but it is not American.



Paul Revere, c1800. Photograph: Hulton Archive/Getty Images

It is in this sense that the act of whistleblowing increasingly has become an act of political resistance. The whistleblower raises the alarm and lifts the lamp, inheriting the legacy of a line of Americans that begins with Paul Revere.

The individuals who make these disclosures feel so strongly about what they have seen that they are willing to risk their lives and their freedom. They know that we, the people, are ultimately the strongest and most reliable check on the power of government.

The insiders at the highest levels of government have extraordinary capability, extraordinary resources, tremendous access to influence and a monopoly on violence, but in the final calculus there is but one figure that matters: the individual citizen.

And there are more of us than there are of them.

The Assassination Complex: Inside the Government’s Secret Drone Warfare Programme by Jeremy Scahill and the staff of *The Intercept*, with a foreword by Edward Snowden and afterword by Glenn Greenwald, is published by Serpent’s Tail (£8.99) and Simon & Schuster (\$30).

Conference and annual general meeting

Conference

Saturday 19 November 2016
8.15am for 9am

Speakers

To be announced

Anyone wanting to tell their story or what they learnt from it should contact Cynthia. You can plan on talking for 15–30 minutes depending on the content. Overhead projection, online connection, CD and DVD will be available.

AGM

Sunday 20 November 2016
8.15am for 9am

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

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

Members, concessional cardholders and students \$45 per day

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

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

Bookings

Notify full details to treasurer Feliks Perera by phone on (07) 5448 8218 or at feliksfrommarcoola@gmail.com or president Cynthia Kardell (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 Coolumb Beach BSB 084 620 Account Number 69841 4626 **or**

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

Low-cost quality accommodation is available at the venue

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

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

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, jarmin@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 Cynthia Kardell and Margaret Love for proofreading.

WBA conference and AGM

This year's conference will be on Saturday 19 November and the annual general meeting on the 20th. The venue will be the same as in recent years: Uniting Church Ministry Convention Centre on Masons Drive, North Parramatta, Sydney. Make your flight bookings now to reduce costs.

See page 23 for details.

Ziggy and whistleblowing

Ziggy Switkowski, chairman of NBN, made an outrageous attack on whistleblowers in an opinion piece published in the *Sydney Morning Herald*. Once upon a time, this might have passed unnoticed, but these days whistleblowing is much more favourably viewed. Commentators jumped all over Switkowski in articles and blogs. For some letters to the editor, see page 17. In this instance, members of Whistleblowers Australia can sit back and let others take the running.



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