

*"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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Reality Winner, imprisoned whistleblower

### National Whistleblower Day

IN 1777, ten sailors and marines from the ship *Warren* petitioned the US Continental Congress — the precursor of the US Congress — to take action against their commander, the first commodore of the US Navy, who they alleged was war profiteering and mistreating prisoners of war. Congress supported them, including when the commander took them to court.

On July 30 the following year, the US Continental Congress unanimously:

*Resolved*, That it is the duty of all persons in the service of the United States, as well as all other the inhabitants thereof, to give the earliest information to Congress or other proper authority of any misconduct, frauds or misdemeanors committed by any officers or persons in the service of these states, which may come to their knowledge.



Eighty-five years after that resolution, in 1863, the Congress adopted the first US False Claims Act to specifically protect the whistleblowers who tried to combat fraud committed by suppliers of the US government during the American Civil War.

However, the Act didn't really come into its own until after 1986 when substantial amendments were made to establish a major federal fraud prevention strategy. Two years later, the National Whistleblower Centre (NWC), a whistleblower and legal support organisation, was formed.



After Whistleblowers Australia formed in 1991, we were in contact with the NWC to support Australian whistleblowers from the late 1980s, those who had forced the 1989 Queensland Fitzgerald Inquiry and ones who later led to the 1995 NSW Police Royal Commission. By 1994, the governments of New South Wales, South Australia and the Australian Capital Territory had enacted Australia's first whistleblower protection laws.



By 2015 the NWC was celebrating July 30 as their National Whistleblower Day. We joined with them in the same year, wanting to help promote modern day whistleblowing more globally.

The NWC celebrates July 30 as a day for "those who raise their voice in the name of combating fraud, corruption, and other crimes, even in the face of great adversity, and the strength of their conviction and dedication to the truth."

This year, the US Senate designated July 30 as National Whistleblower

Appreciation Day. The Senate resolution encourages US federal agencies to inform

employees, contractors working on behalf of United States taxpayers, and members of the public about the legal rights of citizens of the United States to "blow the whistle" by honest and good faith reporting of misconduct, fraud, misdemeanors, or other crimes to the appropriate authorities.

The resolution also acknowledges the contributions whistleblowers have made, at their own personal risk, "combating waste, fraud, abuse."

The US Congress has not yet designated July 30 as National Whistleblower Day on a permanent basis. The NWC continues to campaign for this to happen.

July 30 marks the fourth year that Whistleblowers Australia has honoured and thanked those whistleblowers who have spoken truth to power with incredibly good results for all of society, for example those arising out of the banking royal commission.

It isn't possible to thank everyone individually, but you know who you are and, in honouring the few, Whistleblowers Australia would like to honour you all. Thank you Fazal Ullah, Lynn Simpson, Jeff Morris, Ben Kohl, Brett Strong, Maryanne Slattery, Sharon Kelsey, Rick Flori, the "bushie" who gave us the cabinet files leak, Witness K and lawyer Bernard Collaery, John Lawrence, "Save the Children" whistleblowers, Xanana Gusmao and friends SBS, ABC TV and radio, and Fairfax media.

Cynthia Kardell  
President, Whistleblowers Australia

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## Understanding and responding to victimisation of whistleblowers

In May, a team of researchers reported on their study of Australian whistleblowers, focusing on reprisals and ways to deal with them. The team interviewed whistleblowers who responded to an invitation. One set of invitations was sent to members of Whistleblowers Australia, the other to people who had made disclosures to the service STOPLINE.



The study team was Inez Dussuyer, Russell G Smith, Anona Armstrong and Kumi Heenatigata. The study findings are presented at considerable length in a report to the Criminology Research Advisory Council, which has a convenient executive summary, and in an article by Dussuyer and Smith in the May issue of the Australian Institute of Criminology's publication *Trends & issues in crime and criminal justice*.

The researchers, as well as interviewing whistleblowers, also interviewed whistleblower advisers — those, like some office bearers in Whistleblowers Australia, who have talked to lots of whistleblowers.

For many whistleblowers, the findings will be no surprise: reprisals are common and have significant adverse impacts. Also, whistleblower laws don't provide much protection.

The reports provide lots of valuable detail, especially brief whistleblower stories. If you are caught up in your own case, it can be illuminating to see wider patterns and recognise the similarities with other cases, but also any special features of your own case.

The researchers emphasise the limitations of their study. For example, of 250 invitations sent to email addresses provided by STOPLINE, only 19 people responded and, of these, only 12 were interviewed. There was a better response to invitations sent to members of Whistleblowers Australia, with 24 individuals interviewed. There's no way of knowing what the non-responding whistleblowers would say, but it's plausible that those who replied represent more serious cases.

The findings of the research are in tune with views presented by Whistleblowers Australia for many years. A key finding is the lack of support for whistleblowers.

An enduring theme arising from interviews was the lack of welfare and support for whistleblowers. This was particularly emphasised by those who dealt with whistleblowers some of whom said that support was either absent or inadequate, apart from general workplace counselling and welfare services that were provided by some organisations. None of those interviewed, be they whistleblowers or those who dealt with them, indicated that the protections offered by whistleblower legislation were effective in preventing and deterring acts of retaliation and reprisal. (p. 8)

Another key finding was that whistleblower legislation doesn't work very well.

None of the persons interviewed, whether they were whistleblowers or those dealt with them, perceived current legislation as being effective in preventing victimisation ... More often it was improvements in management and workplace culture that were identified as being more beneficial. Interviewees stressed the need for workplace policies that are in place to be actually implemented and complied with, as well as more practical welfare support being made available to whistleblowers. (p. 9)

The most encouraging thing about this report is that the researchers talked with whistleblowers and with whistleblower advisers and took their views

seriously. Australian governments, when drafting whistleblower laws, seldom consult whistleblowers. One interpretation is that governments like to be seen to be doing something, so they pass a law that gives the impression of providing protection even though the laws don't work in practice.



There is no guarantee that whistleblowers have the solution to the problems they confront. The ideal might be to learn from managers and workers who have fostered cultures that support speaking out about problems as a routine behaviour. Nevertheless, whistleblowers have good ideas about what not to do, and that's a good start.

If you're up for reading research about whistleblower victimisation, this is a report worthy of study. If this sounds too hard, just read the case studies, conveniently highlighted throughout the report. If you've suffered reprisals, you'll soon learn that you're in good company.

The report:

<http://crg.aic.gov.au/reports/1718/23-1314-FinalReport.pdf>

The article:

<https://aic.gov.au/publications/tandi/tandi549>

Brian Martin

Vice President, Whistleblowers Australia



## Whistleblowers versus evil

Brian Martin

Whistleblowers encounter some of the worst aspects of human behaviour. First, they see some problem, such as corruption, abuse or danger to the public. In nearly every case, this involves someone doing the wrong thing, causing damage to others. Whistleblowers don't turn away: they decide to say something about it.

Second, they observe that few others speak up. In most cases, there are lots of bystanders who know about the problem but are afraid or indifferent, and allow the problem to fester.

Third, they suffer reprisals. For doing the right thing, whistleblowers regularly experience ostracism, rumour-mongering, harassment, denunciations and dismissal. Often the perpetrators are bosses or colleagues, people who should be just as concerned about the problem.

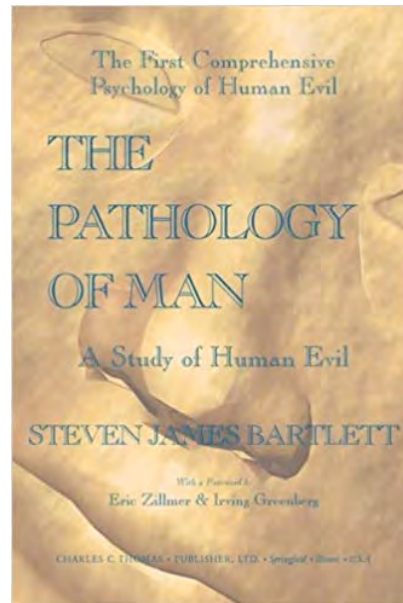
Fourth, they have frustrating engagements with official channels, such as senior management, grievance committees, courts and regulatory bodies. These bodies have the responsibility to address problems but, all too often, they do not side with the whistleblower and have weak-kneed responses to systemic problems.

All this is enough to cause whistleblowers to become deeply disillusioned with their fellow humans and human-created systems. For many, it causes a personal crisis, with faith in people's honesty and fairness smashed and nothing to replace it. Some whistleblowers continue to seek justice, hoping to find a white knight who will vanquish the wrongdoers. But what if there are no white knights? What if human behaviour is irredeemable? What if the bad guys are going to continue to get away with their evil deeds? What if there is something dark about humans generally?

### Human evil

Steven James Bartlett is a philosopher and psychologist who has studied deep-seated problems in the human species, problems so bad that they can be called evil. This sounds heavy, and it is. Here I will look at his book *The Pathology of Man: A Study of Human*

*Evil*, published in 2005. "Man" in the title refers to the human species. Bartlett is concerned about problems in our species so fundamental and so damaging that they can be called a pathology, or in other words a disease.



Step back for a moment from thinking about the people you know or the political events you read about, and imagine you are a being from another planet looking down on earth and all the life forms inhabiting it. You would observe everything from microorganisms to plants and insects to mammals. Every species does what it can to survive.

You couldn't help noticing one mammal in particular, humans. This species has made an enormous impact on the environment and on other species. It cultivates other species for food, sometimes causing other animals great pain. It spreads its waste products across the globe, causing massive species extinctions. Members of this species sometimes turn on each other, hurting or killing them in what is called torture and murder. Some of them control vast resources (called wealth) and leave others with little or nothing, allowing them to die. Some of them produce and sell toxic products (like cigarettes) known to cause death. Sometimes members of this species fight on a grand scale, in what is called war. Sometimes they join in killing large numbers of defenceless members of their own species, in what is called genocide.

An ecologist, looking at the interplay between species, might say that humans are noxious, like a weed that can't be controlled. Humans are concerned about the damaging effects of plants like lantana or animals like the cane toad, but these species are only beginners at causing damage compared to humans.

Bartlett gives the label "evil" to voluntary human thinking and behaviour that seriously harms happiness, health and life itself. But you don't have to use the word evil: you can just refer to violence, cruelty, exploitation and destruction. Just read history books, or watch the news, and you'll find plenty of evidence.

So what is going on to cause humans to be so harmful to each other and to the environment in which they live? Bartlett has a radical view. He says that the capacity for evil is part of the makeup of humans and that most evil deeds are carried out by people who are psychologically normal.

*The Pathology of Man* is a lengthy work of immense scholarship — it is not bedtime reading. Bartlett examines a vast range of writing relevant to human evil, for example the views of psychiatrists Sigmund Freud, Carl Jung and others less well known. He looks at the available evidence about people involved in genocide, with special attention to the Holocaust. The Nazi killers were not a deviation from the norm: most of them, when tested, were psychologically normal. The same applies to war: most soldiers are psychologically normal, yet they are willing to kill other humans.



It is worse than just killing. Many humans get a thrill out of watching other humans hurt, torture and kill each other. Think of the popularity of boxing and war movies, and the excitement people feel in wartime. Killing can itself be a source of emotional gratification.

Canvassing a vast body of evidence, Bartlett concludes that normal humans have the capacity to participate in evil deeds. The implication is that what is normal is pathological — it is like a disease. The implication is that the human species, not just a few aberrant individuals, is pathological.

Bartlett examines the research on obedience. It shows that most normal humans will obey authorities and cause extreme pain to someone else. In fact, so normal is obedience to authority that it is those who disobey who are unusual. This is where Bartlett's analysis is relevant to whistleblowers.



Think of organisations where it is routine to cause harm to other humans or the environment. Some obvious candidates are tobacco companies and military dictatorships, but there are many others. Take your pick: holding refugees in detention camps, sending animals on long voyages in terrible conditions, selling pharmaceutical drugs known to be deadly, or implementing policies that leave people destitute.

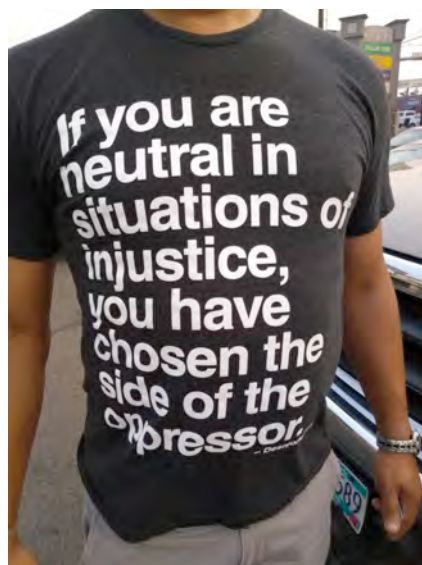
Most workers participate without any scruples; indeed, they may engage with the job enthusiastically, even though they know that others may be harmed. It is usual for such workers to justify their actions, for example by saying “We’re satisfying market demands,” “We’re defending the country” or “We’re following orders.” Bartlett says that such thought patterns that rationalise cruelty are themselves pathological. In other words, ways of thinking that enable evil are themselves part of the problem.

### Whistleblowers are abnormal

Whistleblowers are exceptions. Rather than joining in damaging activities or watching as they continue unhindered, they speak out. They try to do something about the problems. They are the abnormal ones.

Bartlett writes that human stupidity is one of the contributing factors to evil deeds. He discusses stupidity as a shortcoming of cognitive capacities but is most concerned with shortcomings in *moral intelligence*. Someone can be very smart, with a high IQ, like most of the leading Nazis under Hitler, and yet be deficient in moral capacities. This is apparent in the ease with which intelligent people can become involved in bullying, racism and hatred of enemies, and obey orders to participate in activities devastating to other humans and the environment.

People who intentionally blow the whistle in the public interest are exceptions. They have a conscience and are willing to act on it.



Bartlett is quite pessimistic about the human species. In fact, he sees hope as part of the problem, because always looking at the bright side of human nature means that the dark side is continually under-examined and underestimated. He doesn’t provide any solutions, only wishing that others — mainly those with high levels of moral development — will recognise the capacity for evil residing in humans who are psychologically normal.

### Implications

For whistleblowers, there are a few implications. One is that it is important to learn about human psychology, in particular the capacity of most humans to hurt others and protect themselves at the expense of others. When whistleblowers are subject to reprisals, this reflects a culture of obedience to and

fear of authority, as well as a tendency to stigmatise outsiders. When whistleblowers are treated as traitors, this is a manifestation of human hatred, and hatred is an emotion based on wanting to destroy the hated object.



Bartlett points to the importance of moral development, of enabling individuals to think beyond their immediate self-interest and to develop a capacity to reason for themselves about the legitimacy of rules and institutions. Whistleblowing often involves a rethinking of what is fair and beneficial. What distinguishes public interest disclosures from personal grievances is a concern for others, especially those who are less fortunate.

For me, Bartlett’s analysis points to the value of social movements against oppression, exploitation and repression. Labour movements have challenged exploitation in workplaces, feminist movements have challenged systems of male domination and environmental movements have challenged destruction of nature. Some aspects of these and other social movements reflect a high moral sense in action, especially when participation in movements brings no immediate personal benefit.

Many whistleblowers thus have affinities, in their moral concerns, with movements for equality, justice, human rights and environmental sustainability. Bartlett would remind both whistleblowers and activists to remain aware of the dark side of humans.

Brian Martin is editor of *The Whistle*.



### NSA whistleblower Reality Winner receives longest sentence ever for unauthorized disclosure

Kevin Gosztola

*Common Dreams*, 23 August 2018



Reality Winner arrives at a courthouse in Augusta, Georgia on Thursday  
Photo: Michael Holahan/AP

FORMER NATIONAL SECURITY AGENCY contractor Reality Winner was sentenced to five years and three months in prison at a federal courthouse in Augusta, Georgia. It was part of a plea agreement approved by the court, where Winner admitted she disclosed classified information in violation of the Espionage Act.

Winner will be incarcerated at Federal Medical Center, Carswell in Fort Worth, Texas, primarily because she has been bulimic for 12 years. In a statement read before the court, Winner said bulimia has been “a constant struggle” for her and expressed fear that, if she wasn’t incarcerated at a medical facility, she could turn to bulimia as a coping mechanism. She also suffers from depression after the death of her father in 2016, mere months before the act for which she was prosecuted.

Additionally, Winner spoke about her motivations for learning the languages and cultures of countries in the Middle East. Following the attacks on September 11, she said she wanted to intellectually understand what had happened. Her interest in language is what ultimately led her to her line of work.

Defense attorney Joe Whitley described Winner’s disclosure as a “poorly considered act of political passion and protest” in an effort to ensure the judge accepted the plea agreement.

After incarceration, Winner will be subject to three years of supervised release. She will not be required to pay a fine. The judge also did not say whether time served would be factored into her sentence.

Winner apologized in her statement and indicated she took full responsibility for her action.

The plea agreement reflected the seriousness of the espionage defense, Judge James Randal Hall said, adding the oft-heard refrain that it would promote respect for the law.

Prosecutors claimed Winner’s disclosure of the NSA report “caused exceptionally grave damage to national security.” However, that was never proven during course of this case and in fact, prosecutors claimed it didn’t have to be proven to convict her of violating the Espionage Act.

In a statement after the hearing, Justice Department representatives celebrated Winner’s sentence as the longest ever for a defendant convicted of making an unauthorized disclosure.

Winner was in the United States Air Force for six years. She is fluent in Dari, Farsi, and Pashto and worked as a language analyst. When she left the Air Force, she was employed by Pluribus International and worked for the NSA at Fort Gordon.

She disclosed a copy of an intelligence report from the NSA that alleged Russian hackers targeted voter registration systems during the 2016 election. It was provided to the *Intercept*, which made several mistakes related to source protection that led authorities to identify Winner as the person who gave the report to the media outlet.



Winner was arrested on June 3, 2017, after FBI agents raided her home. In a small back room in her home, agents controlled her movements, never told her she was “free to leave,” nor did they inform her she had the right to remain silent. The FBI successfully induced a confession that agents

recorded. (What happened during the raid was challenged by defense attorneys through a motion to suppress statements, but ultimately, no ruling on the motion was ever issued by the court.)

She was denied bail. Prosecutors used her service and training in the Air Force against her to make the case she would flee if she was not kept in prison. They also promoted the idea that Winner had no respect for the U.S. government and persuaded the court (as well as an appeals court) that she may be some kind of disloyal American.

For one year and 83 days, she was detained at Lincolnton County Jail. There she was assaulted by a state inmate. Her mental health deteriorated, as a psychologist was hired to help her with depression. Her struggle with an eating disorder worsened because the jail did not or would not accommodate her diet.

A trial was scheduled and postponed at least two times before her attorneys recognized it would be nearly impossible for her to defend herself in court. For example, her defense was hindered significantly when the court rejected 40 out of 41 subpoenas that were requested so evidence could be compiled to possibly show the government had not taken appropriate steps to protect information in the NSA report.

A sensitive compartmented information facility, or SCIF, was set up at the courthouse in Augusta for Winner to meet with her attorneys and work on her defense. Throughout this part of her case, she was routinely dehumanized, as she was shackled 12 hours each day. The shackles were at her waist so she could not drink from a water bottle with her own hands.

When she wanted to use the bathroom, according to her mother, Billie Winner-Davis, officers would do a “complete strip search on her.” Any time she was “taken from the SCIF to return to jail,” they did a strip search on her.

Humiliating and degrading strip searches served the purpose of domination and ensured Winner would recognize who was in control over her.

She changed her plea from not guilty to guilty on June 26 and acknowledged in court the elements of the offense, which prosecutors brought against her.

Her sentence for violating the Espionage Act is extraordinary, particularly when compared to sentences issued in other leak prosecutions. Yet, it is representative of the extent to which the government will go to make examples out of whistleblowers.

There is no public interest defense available to individuals charged under the Espionage Act, a World War I-era law that is antiquated. It forces a person who reveals information potentially of public value to defend their act in terms of whether they are guilty of betraying the country or not. It was not initially used to punish sources and control the flow of information to the press, and yet, especially since President Barack Obama's administration, the Justice Department has relied on the law to expand its ability to silence national security whistleblowers.

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## Climate debate stifled

Andrew Bolt

*Daily Telegraph*, 24 May 2018, p. 13

**Academics who question global warming catastrophism have been warned to keep their mouths shut as is evident in the sacking of marine scientist Peter Ridd**

FINALLY Turnbull government ministers are waking up to a frightening thought: are our universities muzzling global warming sceptics?

Three ministers have now expressed concern about the latest apparent example: the sacking of marine scientist Professor Peter Ridd.

And so they should.

Ridd was fired by James Cook University last week after questioning alarmist claims that man-made global warming is destroying the Great Barrier Reef.

You should be outraged by this, too, even if you're a global warming believer. We cannot get good science if we cannot debate. And nowhere do we more need that debate than with the great global warming scare.

We have had climate scientists convince politicians that our emissions of carbon dioxide are heating the planet dangerously.

This is why our politicians are destroying our cheap and reliable electricity system by driving coal-fired power stations out of business.



Peter Ridd

You can see the cost in your big electricity bills, and in the factories forced shut by power prices that have more than doubled.

Now Leftist politicians want to shut down coal mines, too.

When we are doing something so horrendously expensive, we must be certain that the science our politicians rely on stacks up.

But does it? Scientists abroad point out that we haven't actually had the warming that was predicted.

Nor have we seen the predicted disasters. We've had fewer cyclones, not more. We've had bigger crops, not smaller. Most atoll islands are growing, not drowning.

Yet in Australia, academics who say such things take a terrible risk — not just the risk of losing the massive grants that governments give to alarmists.

The late Professor Bob Carter was once one of the first scientists in the world to note that warming had in fact paused for most of this century.

He then lost his position as professor emeritus at this same James Cook University. Cost cutting, it claimed.

Then there was Professor Bjorn Lomborg, once listed by *Time* magazine as one of the world's 100 most influential people.

Two Australian universities refused grants to host Lomborg's famous

Copenhagen Consensus Centre because he'd argued — correctly — that a lot of global warming schemes waste money without changing the climate.

Angry academics and students at Flinders University and the University of Western Australia insisted Lomborg's views made him a pariah and embarrassment, and the university administrators caved.

All this was shocking enough. It told academics who question global warming catastrophism to keep their mouths shut.

But Peter Ridd wouldn't, and has paid the price.

His nightmare started last August on Sky News when he said claims that the Great Barrier Reef was being destroyed by global warming were exaggerated.



Great Barrier Reef

"The science is coming out not properly checked, tested or replicated," he said.

"We can no longer trust the scientific organisations like the Australian Institute of Marine Science, even things like the ARC Centre of Excellence for Coral Reef Studies." He may be right, he may be wrong. This is a vital question that must be answered with arguments.

Instead, James Cook University gave Ridd the don't-argue.

It attacked him for bucking group-think — for "failing to act in a collegial way" and "not displaying responsibility in respecting the reputations of other colleagues."

It also ordered him to shut up about the steps it was taking against him. Ridd refused. And now he's been fired.

Sadly, most academics are too cowed, indifferent or ideological to protest this assault on scientific debate. Luckily, many Australians aren't, and in just days raised all the \$260,000 Ridd asked for on his GoFundMe page

to fund his legal case against his university.

Politicians are now also speaking up. On Monday, former prime minister Tony Abbott defended Ridd's right to challenge the warming scare and warned: "If we can't have debate, we can't have true science." On Tuesday, Assistant Minister for Science Zed Seselja told me he was troubled by Ridd's sacking: "What I think is really important is the issue of intellectual freedom, the issue of academic freedom when it comes to scientific endeavour." He said Energy and Environment Minister Josh Frydenberg shared his concern, and Education Minister Simon Birmingham said "any university should be encouraging their researchers and students to ask questions, not shutting down debate."

Good, but will the government now force James Cook University to back off? It may be up to people power instead. So speak up. Tell the university that debate must be defended.

Dissent must not be crushed if science is to advance.

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## Whistleblowers Australia denounces new "foreign interference" laws

Richard Phillips

World Socialist Web Site, wsws.org,  
21 July 2018

WHISTLEBLOWERS AUSTRALIA is one of the numerous organisations that lodged submissions to the Australian parliament opposing the new espionage and foreign interference laws, which passed with bipartisan support late last month.

A voluntary organisation that champions those seeking to expose government and business corruption, its submission denounced the laws and existing "terrorism" legislation.

The submission said the laws "discard longstanding legal principles" and "criminalise benign conduct, social justice concerns and ethical professional obligation; stifle political debate and association ... and reinforce the ability of government to protect itself — in secret — from the consequences of its own sometimes illegal acts."

Whistleblowers Australia president Cynthia Kardell spoke with the *World Socialist Web Site* this week about the measures and their political and social consequences. The following discussion has been edited.

Richard Phillips: How will the new laws impact on your work?

Cynthia Kardell: Our organisation exists to help whistleblowers assist themselves. If people can't talk to us, or speak to and provide information to a journalist without being under threat of going to jail if that became known, then it makes the business of talking to anyone very difficult indeed. We're in the age of digital encryption but I suspect that we'll become a little bit old-fashioned in the way we go about things so that we don't leave a digital footprint. It might be a return to old becoming new again.



RP: Was your organisation shocked at the broad-ranging and unprecedented character of these measures?

CK: Not really. There's been a steady erosion of criminal law in Australia since 9/11. Most of these sorts of changes have been implemented by conservative governments — first by the Howard administration and then the Abbott-Turnbull governments — but a number of similar laws have been introduced by Labor governments. So no, we weren't surprised by the new measures.

There's been a steady erosion of basic rights and concerted efforts right across the political spectrum to frighten people and divert their concerns about government policy by blaming particular groups or individuals as the main problem. These methods are as old as time.

RP: The measures were pushed through in the context of increasing anti-China xenophobia in the media and parliament. They also follow calls by various US politicians and military leaders visiting Australia demanding

these laws. Could you comment on this?

CK: There is a fair bit of anti-China hysteria about, and it reminds me of the "reds under the bed" slogans used in the post-WWII and McCarthy era and up until the middle 1970s. This was a common political method of attempting to blame others for our problems and not our own governments. The Menzies [Liberal-Country Coalition] government was fixated with this.

But 9/11, and the rhetoric about terrorism that followed, has allowed governments to build up a bogey and impose a whole range of anti-democratic laws. We're now being told that China is rising up to take us over and do terrible things. The government has used the idea of national security to stop people looking at things and to silence opposition and quietly introduce legislation. We are faced with a rush to the right from across the political spectrum and a retreat into authoritarian platforms. I look at all of this with shame. Democracy's future lies in sharing more power and involving more and more players.

RP: The punishments for espionage, treason, mutiny and related charges have been redefined, with much heavier punishments, clearly designed to silence and intimidate opponents. Can you speak about that?

CK: That's true. It takes "law and order" techniques to the extreme. The political method is two-fold: to look like they're keeping people safe whilst at the same time scaring the bejesus out of anyone contemplating challenging the status quo.



The government wasn't able to prosecute workers from the Save the Children charity who started making public the situation facing refugees on Nauru and the rising number of self-harm incidents, because the existing laws weren't sufficiently all encom-



passing. This was one of the drivers behind the new measures. The government speaks about upgrading the laws but what they really mean is making it illegal to expose what is going on.

Now, if charity workers or others reveal what's going on in the detention centres they can be prosecuted under criminal law and jailed. The most chilling thing is that people working in these areas will have to fall into line. Revelations about these issues will now become a very unusual occurrence. The government is creating a deeply intimidatory atmosphere.

RP: Could you speak about how the news laws would impact on Julian Assange and WikiLeaks?

CK: Assange faces a similar situation to the young Australian David Hicks, who was captured in Afghanistan and sent to Guantanamo Bay. He was eventually forced to admit to something that he didn't do just to get out of Guantanamo Bay. He has since been exonerated.

RP: Why do you think Assange has been ferociously attacked by journalists and media outlets that previously defended him?

CK: What Assange does is so threatening to power because he just takes information and puts it out there. The hypocritical thing in all the attacks on Assange is that the US and other governments are not going after the *Washington Post*, the *Guardian*, the *New York Times*, *Der Spiegel* and other media outlets who republished material from WikiLeaks. The double standards are horrific.



Most of the big media giants are private and their primary concern is to make money, so there's probably an accommodation between them and governments. The big corporate giants

have been asked to toe the line and they've done so. There's also self-censorship by journalists who are intimidated.

RP: The ABC here in Australia has played a particularly dishonourable role in all this.

CK: Yes that's true, but the ABC is not a monoculture. There are plenty of people in there who have explained what Assange is doing and justified it. I think it comes back to money and power as the root cause of this.

I like to think that we are reaching a position where there's a critical mass of people who are deeply unhappy with the fruits of neo-liberalism over the last 40 to 50 years and know that markets don't have all the answers or do things best. It's a question of getting that discussion going politically so that governments of both persuasions feel pushed by the need to stay in power and do something different.

RP: There's certainly a shift in political consciousness but that's why the "foreign interference" laws have been imposed. These measures are in preparation for war and to suppress mass anti-war opposition.

CK: That's right. The laws are there for a particular purpose and it's about controlling the public space and attempting to intimidate the population.

Our organisation, however, will continue to campaign for whistleblowers' rights. Those who decide to become whistleblowers will, of course, continue to be slandered and smeared by governments and businesses, who don't want to be exposed. But in today's world it has become more and more urgent for them to be protected. Society is literally screaming out for more openness and accountability in all sectors.

## Australia: don't prosecute for exposure of misconduct

Whistleblowing former spy, lawyer face hearing for revealing bugging operation

Human Rights Watch press release  
24 July 2018

AUSTRALIAN AUTHORITIES should not prosecute a former Australian spy and his lawyer for exposing government

wrongdoing, Human Rights Watch said today. The Magistrates Court in the Australian Capital Territory is scheduled to hold a hearing setting out next steps in the case against barrister Bernard Collaery and "Witness K" on July 25, 2018.



Bernard Collaery

Collaery and Witness K were involved in legal disputes between the governments of Australia and Timor-Leste concerning entitlements to revenue from oil and gas fields in the Timor Sea. The two men are charged under section 39 of the Intelligence Services Act with conspiracy to communicate information from the Australian Secret Intelligence Service. Charges under that section, punishable by up to two years in prison, can only be brought by prosecutors with the consent of the attorney-general.

"Officials like Witness K who expose government misconduct play an important role in holding the authorities to account and need to be protected, not prosecuted," said Elaine Pearson, Australia director at Human Rights Watch. "Instead, years after the events took place, the Australian government is pursuing a secretive Kafkaesque prosecution of the former spy and his lawyer."

The Timor-Leste government filed documents with the International Court of Justice in The Hague in 2014 stating that in 2004, "Australia covertly spied on the Timor-Leste negotiating team by means of listening devices surrepti-

tiously and unlawfully placed by Australian personnel in the Timor-Leste government offices. This enabled the Australian negotiating team to become aware of the private discussions of the Timor-Leste negotiating team and of its position in relation to various issues arising in connection with the 2002 Treaty and the attempt to amend it by the drafting of the 2006 Treaty.” The Australian government has not confirmed or denied the allegations.



Witness K, who was part of the Australian bugging team, complained to Australia’s inspector-general of intelligence about the legality of the operation in 2007 and subsequently, with the inspector-general’s approval, sought legal advice from Collaery. Collaery was a legal advisor to the Timorese government.

In December 2013, when the case was going to be heard at the International Court of Justice, Australian Security Intelligence Organization agents raided Witness K’s home and Collaery’s office, seizing documents and data. They cancelled Witness K’s passport, preventing him from traveling to the Hague, where he was due to give evidence. Timor-Leste then initiated proceedings against Australia regarding the seizure of documents, data, and other property that it said belonged to Timor-Leste or that Timor-Leste had the right to protect under international law.

Details of the charges against the two men were only made public on June 28, 2017, when a member of parliament, Andrew Wilkie, used parliamentary privilege to disclose the prosecution. That same day, parliament passed new espionage and national security laws that increase the penalties for unauthorized disclosures of information with a very broad definition of “national security.”

The law passed without provisions

for a strong public-interest defense across all offenses, though government officials have said that the attorney-general would have discretion about whether to prosecute the offenses. Whistleblowers, and those like Witness K who reveal government misconduct through the system, need protection from retaliation for disclosures that are made in the public interest, Human Rights Watch said.

If the court case proceeds, it should do so in open court, rather than in secret, Human Rights Watch said. Information at court hearings should not be kept from the public unless disclosing it is likely to harm a legitimate national security interest, and the harm from disclosure outweighs the public interest in knowing the information.

There is a strong public interest in knowing the reasons for these prosecutions in connection with the defendants’ attempts to expose wrongdoing by the Australian government. Open court proceedings are vital to public confidence in the criminal justice system. Suppression orders should not be used to protect governments from criticism or embarrassment.

“The attorney general should not be bringing a case against Witness K and his lawyer for reporting on wrongful practices by the government,” Pearson said. “This case combined with sweeping new laws criminalizing unauthorized disclosures could have a chilling effect on officials who see government corruption or wrongdoing and want to do something about it.”

## Indian whistleblowers who lost their lives

Matua Mallik

*Quora*, 29 January 2018, answer to

“What shocking things do most Indians not know?”

INDIA IS THE BIGGEST DEMOCRACY in the world and some of the biggest organizations are managed by Government officials. In India, often law is used to take advantage of a group of people. There are a few brave individuals among us who took a stand against corruption.



Here is a list of some of the “whistleblowers” who lost their lives fighting against illegal and corrupt systems.

### Manjunath Shanmugam (1978–2005)

He did his engineering in Computer Science Engineering from Sri Jayachamarajendra College of Engineering, Mysore and MBA from Indian Institute of Management, Lucknow. While working in Indian Oil Corporation Limited, he sealed two petrol pumps in Lakhimpur Kheri, Uttar Pradesh for three months for selling adulterated fuel. When the pump started operating again, he conducted a surprise raid after a month.



On November 19, 2005, he was shot with six bullets and his dead body was found in the back seat of his car. There was a huge outcry in the media. His family was paid 26 lakhs INR as compensation.

A biopic directed by Sandeep Varma on Manjunath, titled *Manjunath*, was released on May 9, 2014.

### Satyendra Dubey (1973–2003)

He graduated as a civil engineer in the year 1994 from the Indian Institute of Technology, Kanpur. After M. Tech. from what is now the Indian Institute of Technology, Banaras Hindu University, he joined the Indian Engineering



Service (IES) and in July, 2002, went on a deputation to the National Highway Authority of India (NHAI). He became the Project Director at Koderma, Jharkhand and was responsible for managing a section of NH-2 (GT Road). After exposing serious financial irregularities, he got the contractor of the project to suspend three of his engineers. He had the contractor rebuild six kilometers of under-quality road, a huge loss for the road contract mafia.

On 27 November 2003, Dubey didn't reach home after returning from a wedding in Varanasi. His driver went to look for him and found his dead body, which had been shot. He had been facing several threats following his action against corruption at Koderma, according to the police's FIR [First Information Report] after his murder.

#### **Satish Shetty (1970–2010)**

He was a social activist. He used the Right to Information (RTI) Act to expose irregularities in Government offices and large land scams involving the leading real estate firm IRB Infrastructure and its subsidiary Aryan. He filed a complaint that large swathes of land had been acquired by the firms using forged documents. After investigation, 90 sale deeds were cancelled. He started getting threat calls after this episode.



On January 13, 2010, while reading a paper after his morning walk, he was knifed by several people. In his honor, the National RTI Forum has named an award as Satish Shetty RTI Gallantry award.

#### **Narendra Kumar (1979–2012)**

He was an Indian Police Service (IPS) officer and an alumnus of Aligarh Muslim University. He joined as an IPS officer in 2009, and was posted to Morena, Madhya Pradesh in early 2012. The Morena district is famous for the fine quality of sand found in the Chambal River bed which is used in construction of buildings, and, in past years, there have been reports of rampant illegal mining.



On March 8, 2012, he received information about illegally mined stones being carried in a tractor. After he tried to stop it, he was run over by the tractor.

#### **Lalit Mehta (1972–2008)**

He was an RTI activist and a prominent member of The Right to Food Campaign, working in the Vikas Sahyog Kendra in Palamau District, Jharkhand. He exposed scams in the National Rural Employment Guarantee Act (NREGA) using his Right to Information.



On May 14, 2008, he was travelling back to Chatarpur on his motor bike when he was attacked and killed. He

was strangled and his face was smashed and deformed beyond recognition. The National RTI Forum started a Lalit Mehta RTI Gallantry Award in his honor.

This list is a compilation of only a fraction of whistleblowers in India. In past years, many whistleblowers have allegedly been harassed and jailed for exposing corrupt activities, while many gave away their lives for doing the right thing.

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### **New Zealand scientist forced out**

Charlie Mitchell

*Stuff*, <https://www.stuff.co.nz/>  
13 July 2018



A photo showing an irrigation pipeline, part of which is on conservation land with significant values, sent by a DOC scientist that led to his suspension.

A FEW MONTHS AGO, I was sent photos of a massive pipeline being built by a pristine, blue lake.

It was an image of environmental devastation — a digger tearing a long trench, nearly 50m wide in places, in a sensitive landscape. It was so long it disappeared into the horizon line, near the breathtakingly blue Lake Pukaki.

It was shocking, but not a surprise. The existence of the pipeline had been widely reported, and I had been contacted by several people asking me to look into what was happening with that massive scar in the fragile Mackenzie Basin. It was certainly no secret.

It was particularly newsworthy because the pipeline was partly on conservation land with high natural values. The pipeline would enable the irrigation of a massive and deeply controversial dairy farm, planning to put thousands of cows and up to a dozen pivot irrigators on the dramatic landscape by the lake.



It was an extraordinary example of environmental compromise, bringing together many issues: A sensitive piece of land, which had just been privatised through the tenure review process, would become a dairy farm that even Fonterra doesn't like. Tenure review had placed some of the land into the conservation estate, which the pipeline would run through, because it had been approved before it became conservation land. This had all been signed off by various authorities, and had become a flashpoint for the mismanagement of the Mackenzie.

I had received the photos from an environmental organisation, which — like most New Zealanders should be — was deeply concerned about what was happening, and the role of several public agencies in enabling it. (The Department of Conservation (DOC), to its credit, opposed the easement for the pipeline).



The dry landscape of the Mackenzie Basin. Photo: John Bisset/Stuff

As reported by Newsroom, it turned out the photos had been taken by Nick Head, a DOC scientist who will be familiar to anyone who follows environmental issues in the Mackenzie. He is an expert on the region's flora, and knows more about the topic than just about anyone. On behalf of DOC, he has submitted on local plans and court hearings about the loss of biodiversity in the Mackenzie, highlighting the fragile state of what remains. Much of the vital environmental work being done there is thanks to his depth of knowledge.

Head has since left DOC — he was suspended, and quit two and a half months later. He is now making a personal grievance claim against DOC.

His apparent crime was sending those photos to the environmental groups which DOC had worked alongside regarding conservation work in the Mackenzie.



Eugenie Sage, the conservation minister, wants DOC to return to an advocacy role. Photo: Martin de Ruyter/Stuff

That's it.

The leading expert on one of our greatest environmental challenges — the protection of the unique landscape of the Mackenzie Basin — is gone, because he sent photos of an environmental issue happening on conservation land that was publicly known, had been widely reported, and was visible to anyone who had flown over the basin.

As an added insult, DOC released its own photos of the pipeline, almost identical to those taken by Head.

When the Labour-led Government took power, DOC's new minister, Eugenie Sage, said she wanted the agency to return to its advocacy role. This is hardly controversial: advocacy is listed as one of DOC's functions under the legislation enabling its existence, and something it had conspicuously stopped doing under the last Government.

There was the time it discarded a lengthy and critical draft submission on the Ruataniwha dam for a neutral one just two paragraphs long; There was the time it filed a neutral submission on a coal mine its experts said would lead to unavoidable and substantial damage to significant conservation values.

Recently, it approved a skifield's expansion into a rare and protected wetland, despite advice from its technical advisor that doing so would destroy it.

This disregard for the department's own experts was not acceptable under the last Government, but is even less so under the current one, which has made its intentions clear.

While its minister was publicly calling for a return to its advocacy role, the department suspended one of its scientists who, in desperation for the environment, committed what could generously be called a minor infrac-

tion. While its minister talked about the need to save our precious wetlands, it was signing off on the destruction of one.

Nearly a decade ago, Niwa (National Institute of Water and Atmospheric Research) sacked its chief scientist, Dr Jim Salinger, for speaking to the media. Among his stated crimes was contributing to a TV broadcast about glaciers, his area of expertise, without telling Niwa first, and ringing weatherman Jim Hickey to tell him the Greymouth River was in flood.

Niwa was rightfully excoriated for firing Salinger, one of the country's most esteemed scientists, for the mortal sin of communicating with the public about serious issues for which he is an expert.

Since then, Niwa — at least in my experience — has been a model for communicating science with the public, and regularly makes its experts available to the media. We are all the better for it.

The hounding of Nick Head by DOC deserves the same contempt. In a time where scientists are more important than ever, DOC has chosen to punish an expert who raised awareness about an environmental issue, flagrantly defying the stated intent of its minister that the department advocate for the environment.

New Zealand has an unfortunate history of silencing scientists. After the Canterbury earthquakes, journalists struggled to get information from scientists eager to help due to authorities controlling the flow of information. Freshwater ecologist Dr Mike Joy faced disciplinary proceedings from his employer after it received a complaint from the EPA's chief executive about Joy's criticism of the EPA's chief scientist.

By providing the pipeline photos without permission, Head may have broken an internal policy, but there should be no such policy. Scientists from public organisations should be encouraged to talk about and advocate for the issues in which they are experts.

Head had raised these issues internally. In an email to his bosses, he said the pipeline route had been "completely bulldozed" and had caused "maximum destruction." He went through official channels. In that

context, sending those photos was an act of desperation. That is indictment enough of the culture at DOC.

I have just completed a series about the country's biodiversity crisis, as seen through an algorithm developed by DOC to prioritise species and ecosystems for saving. It is a stark example of the problem; we are so incapable of undoing the damage we've done, we're looking to mathematics to salvage what we can.

It is also a triumph. It shows the value of scientific expertise, and how incredibly smart people can solve monumental problems for collective benefit.

By ousting one of its experts, DOC has showed no regard for its minister, the public who rely on those experts, and even its founding legislation, which mandates DOC to "encourage and participate in educational and publicity activities for the purposes of bringing about a better understanding of nature conservation in New Zealand."

One of the greatest conservation issues for the new Government is figuring out how to protect the Mackenzie Basin. A likely method is by establishing a drylands park, a concept Sage has expressed support for and intended to pursue as policy.

It will go ahead without the person who came up with the idea in the first place — he made the mistake of advocating for the environment such a park would protect.

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## Veritas Leaks

**A new platform welcoming whistleblowers that offers anonymity, collaboration, and impact**

Press release, 16 August 2018

PROJECT VERITAS is scaling up their program geared towards protecting, recruiting, and working with sources, called Veritas Leaks. All confidential sources are welcome to take advantage of the program. Project Veritas is hoping to hear from insiders in the Deep State, Big Tech, and major media outlets.

Project Veritas founder and President James O'Keefe is committed to promoting a more transparent and

ethical society, and acknowledges that to expose society's deepest issues, leakers and whistleblowers require secure and effective ways to sound the alarm:

"I will go to jail to protect a source's identity. Security is our paramount concern. The goal is for our combined efforts to expose corruption to have a positive impact while protecting the identities of highly-placed informants. Project Veritas will not only welcome whistleblowers bringing truth to the masses, but will use secure means to maintain confidentiality. Along with our undercover journalists, these individuals who exhibit moral courage take great risks for the wellbeing of our country are our absolute highest operational priority."

Project Veritas offers insiders a specific promise: to shield their identity and maintain anonymity while exposing the greatest threats facing the United States.



The program includes the establishment of an experienced and dedicated team that directly works with insiders that contact Project Veritas in order to securely transfer information and safeguard identities. This team will monitor incoming communications on a variety of encrypted messaging applications.

To begin working with Project Veritas, people providing valuable news tips are encouraged to visit <http://www.projectveritas.com/tips> and inquire further via their preferred communication channel.

The creative content for the ad buys will consist of dozens of various data-driven micro-targeted still advertisements across a wide range of internet platforms, as well as two thirty-second video ads.

## This Trump administration whistleblower has some advice for young scientists

Katie Langin  
*Science*, 30 July 2018

ONE YEAR AGO, Joel Clement — then a senior scientist at the U.S. Department of the Interior in Washington, D.C. — wrote in *The Washington Post*: "I am a scientist, a policy expert, a civil servant and a worried citizen. Reluctantly, as of today, I am also a whistleblower on an administration that chooses silence over science."

And with that, Clement went public about his ongoing feud with President Donald Trump's administration, alleging that Trump appointees had retaliated against him and transferred him to an inappropriate position because of his work on climate change policy. He filed an official complaint with the U.S. Office of Special Counsel — a complaint that, a year later, is still being investigated. And in October 2017, he resigned from his position entirely.

*ScienceInsider* caught up with Clement last week here at the North American Congress for Conservation Biology, where he received an award for his work on climate change and his "courage in upholding the highest standards of scientific integrity in government service." This interview has been edited for clarity and brevity.

**Q:** For readers who aren't familiar with your story, can you take us back to what led to your op-ed in *The Washington Post* and eventual resignation?

**A:** I was the director of the Office of Policy Analysis at the Department of the Interior, and in that role was the climate change lead for the agency.

I spent most of my time on the impacts of climate change on Alaska Native villages in the Arctic and the implications for these people for getting them out of harms way. These villages are perched on melting permafrost on a coastline that is no longer protected by sea ice most of the year, and every fall we cross our fingers that a big storm doesn't wipe one of them off the map.

I went from that job to being reassigned to the office that collects royalty checks from the oil and gas industry. The political appointees were sending a very clear signal they wanted me to quit. And it was inappropriate and it was retaliation. They also reassigned a very disproportionate number of American Indians at the same time. So there was discrimination and retaliation; they checked all the boxes for bad management.



Joel Clement was the top climate policy expert at the U.S. Department of the Interior before he was reassigned to a post collecting royalty checks from the oil and gas industry. JA-REI WANG/UNION OF CONCERNED SCIENTISTS

Q: What was the hardest part about transitioning away from civil service?

A: It was difficult to leave because working in the federal government exceeded all of my expectations in terms of access and impact. You can't do a lot of those things from outside government. You can throw ideas over the castle walls, but until you're inside you don't know how those ideas take.

In my case, they'd already taken the job I was there to do and all I had left was my voice. It became clear that if I was going to be effective any longer it had to be outside the agency. So I have no regrets about leaving.

Q: What are you doing now?

A: Since January, I've been a senior fellow at the Union of Concerned Scientists in Cambridge, Massachusetts, working on scientific integrity. The Harvard Kennedy School recently spun up an Arctic initiative, so they brought me on a senior fellow with that as well.

I've essentially taken my portfolio into these other arenas. I'm able to continue my work and, under the

current circumstances, can be more influential and effective in these roles. So it's worked out.

Q: What's your advice for other potential whistleblowers?

A: You should say something if you're being asked to do something that goes against your values or the mission of the agency, or if it's an issue that's important to the health and safety of Americans. But before you do anything, get to know your rights and protections and what could happen to you.

You have to figure out where you draw the line between keeping your head down and raising your hand. That line is different with every issue and every individual.

I understand why people don't do it. They have families to support, mortgages, health insurance, and so on. They may also view their particular issue as not being a big enough deal.

But one thing I've learned from working with journalists is there are a lot more stories out there than people think, and they're more interesting to people than you would guess. So I always encourage people to talk, but I'm a rabble-rouser.

Q: How do you see the federal scientific workforce changing going forward?

A: A lot of people are leaving federal service now because of the current administration. I hope when this is all over we'll be able to bring back the scientists and policy experts and get back to the business of serving America's needs instead of industry, which is what it's become.

Right now nearly 50% of the federal workforce is approaching or already in retirement age. So there is a huge opportunity coming up to transform public service and the science enterprise. Early- or mid-career scientists could jump in and really bring new energy. So I tell people: Do some time in federal service. It's gratifying and maybe that will help restore the damage that's been done to silence experts.

Americans in general appreciate the role of science. So after this administration, I would expect that we'd get back to science-driven policymaking.

## The truth about telling the truth

Lachlan Colquhoun

*In the Black*, July 2018, pp. 22–27



While workplace policies encourage anonymous whistleblowing, Australia's Corporations Act protects only whistleblowers who are willing to identify themselves.

Illustration: Adam Nickel.

AS MANY corporate whistleblowers have discovered, doing the right thing isn't always rewarded. Instead, telling the truth can be followed by retribution and career ruin. How do we make it safe to speak up?

For most people who become whistleblowers, it is a life-changing experience. In Wendy Addison's case, this meant going from her dream job as CFO of a listed company in her native South Africa to homeless and begging on the streets of London. "I was unemployed for 11 years and I was psychologically broken," she says. "My only focus was on survival."



Wendy Addison

From this low point, Addison embarked on a path of research in social science and neuroscience, ultimately forming a consultancy called SpeakOut SpeakUp, which not only addresses whistleblowing, but seeks to change organisational behaviour so that whistleblowing is no longer necessary.

"Now, my life is woven with such richness, in terms of the people I meet all over the world," Addison says.



"When I contrast that with the corporate ambitions I had when I was in my 30s, I can only celebrate where I have got to."

Michael Woodford's three-decade career in the UK for Japanese camera manufacturer Olympus culminated in his appointment as the company's first non-Japanese chief executive in 2011. Only months later, he was dismissed in a dramatic boardroom showdown after blowing the whistle on a £1 billion fraud linked to the Japanese yakuza (organised crime syndicate).

It was Woodford's last corporate role; now he devotes his time to philanthropy and a road safety charity in Asia.

"I thought I was going to be assassinated," Woodford says. "It completely changed my world and I have no stomach for corporate life now. I am a lone wolf who has been thrown out of the pack and I don't want to go back."

Woodford also "bangs the drum" for better corporate behaviour and consults to major corporates around the world, in addition to a role as patron with European whistleblowing charity Public Concern at Work.

### How much has changed?

Despite legislative progress in the UK through the *Public Interest Disclosure Act 1998*, Woodford is still cynical about the corporate world's embrace of whistleblowing.

"If you are a high-paid director of a listed company, it is in your self-interest as much as anything to do the right thing," he says. "You want your systems to be robust, so your company doesn't commit acts where you can be held responsible for malfeasance. Who wants that?"

Closer to home, Sylvain Mansotte discovered a long-running fraud in the procurement area of construction giant Leighton Holdings only weeks after he joined in 2013.

Mansotte uncovered a A\$20 million fake invoicing fraud, and his whistleblowing resulted in a 15-year jail sentence for former finance manager Damian O'Carrigan, who had used the proceeds to fund an extravagant lifestyle of overseas holidays, racehorses and mistresses.

"My entire world turned upside down," Mansotte says. "I was the guy with the gun in his hand, and I knew if

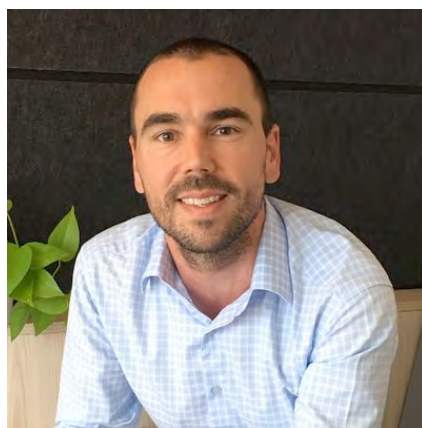
I pulled that trigger I could destroy the life of a family and a guy who had been at Leighton for 30 years and was six months from retirement."

Although he was promoted at Leighton, Mansotte left in 2015 to develop an online solution that has developed into Whispli, a secure and anonymous two-way communication solution used not just for corporate whistleblowing, but for reporting sexual harassment and bullying in schools and universities.

It is a product that came directly from Mansotte's own whistleblowing experience. He was initially reluctant to approach any of his colleagues, and did not feel confident speaking to the third-party organisation appointed by the company because it would compromise the anonymity he felt necessary.

His French accent, he believed, was a giveaway and would have the unwelcome consequence of identifying him. "I was blaming myself for uncovering something," Mansotte says. "Do you go to a third party who knows nothing about you, and who is potentially going to go back to your organisation and tell them?"

"My fear was that the company would come back to me and say, 'You went to that third party and that was wrong for you to talk about. Wrong! Here's the door, see you later'."



Sylvain Mansotte

### A safer way to blow the whistle

Users of Whispli can communicate anonymously and continuously with either designated areas in the organisation or with third parties. After initial contact, they can answer questions and provide more details and progress the issue, accessing Whispli from any-

where using a password and a case identification number.

"It creates one single source for the reporting of misconduct and wrongdoing," Mansotte says. "Some clients have said they get four times as many reports using Whispli, so it's definitely helping people come forward."

After its adoption by hundreds of organisations around the world, such as Coca-Cola, Qantas, and Oxfam, Mansotte is leaving Australia for Boston [in the US] this year to continue to drive his business; one that he would never have had but for his whistleblowing experience.

"It's been a massive turnaround in my life but it's been a good one," Mansotte says. "I'm one of the lucky ones."



# WHISPLI

### Supporting whistleblowers

Those three whistleblowing cases all go back years, and in the duration there have been significant legislative and cultural shifts. In Australia and New Zealand, the first wide-ranging national research into whistleblowing — called "Whistling While They Work" — drew responses from 702 public, private sector and not-for-profit organisations.

The study, completed by Griffith University, Australian National University, University of Sydney and supported by 22 regulatory and professional organisations, including CPA Australia, found that while 90 per cent of organisations have mechanisms to respond to anonymous whistleblowing, only 16 per cent had any policy for ensuring adequate compensation for whistleblowers.

This is a major issue, given many whistleblowers experience reprisals and career disruption as a result of bringing wrongdoing to light, and then have to fight their case before the Fair Work Commission. The research also highlighted a disconnect between the workplace and the law.

While workplace policies encourage anonymous whistleblowing, Australia's Corporations Act protects only whistleblowers who are willing to identify themselves.

### How Australian law compares

The issue of anonymity is a critical one for many whistleblowers, and it is now addressed in new Australian legislation, the Treasury Laws Amendment (Whistleblowers) Bill, which aims to create a single whistleblower protection regime in the Corporations Act. The Australian whistleblowing legislation follows the model of the UK and other Commonwealth countries, such as Canada. It is very different from the US where there are two pieces of legislation: the False Claims Act that covers government contracts and was introduced to stop fraud against the Union Army during the Civil War, and more recent corporate legislation under the 2010 Dodd-Frank reforms, which followed the global financial crisis (GFC).

In the US, a cornerstone of the later legislation is a compensation scheme where whistleblowers are awarded a percentage of any fines imposed by the courts, usually set at between 10 and 30 per cent.

Under this legislation, administered by the Office of the Whistleblower operating under the Securities and Exchange Commission (SEC), US\$252 million has been paid out to 53 whistleblowers in the last seven years. Whistleblowers can also remain anonymous and, according to US lawyer Mary Inman, there are several examples where a whistleblower has anonymously reported his or her employer, been awarded compensation, and is still working in the organisation.

### The #METOO movement

Inman is a partner in US law firm Constantine Cannon, and has been representing whistleblowers for more than 20 years. In March 2018, Constantine Cannon announced that two of its clients would receive more than US\$1.13 million for information they provided to the US Government in its criminal case against Takata, the now bankrupt maker of defective car airbags that caused the deaths of 22 people.

"I see that we are in an unprecedented moment with whistleblowing right now," Inman says. "You look at the #MeToo movement on sexual harassment, and the grassroots movement of young activists against gun laws in the US, and I see whistleblowing in that context."



Inman recently moved to London to head up her firm's international whistleblower practice because the US laws are also accessible to citizens of other countries with information about US-listed companies. The SEC whistleblower program receives around 4000 submissions a year, including a significant percentage from outside the US, notably from the UK, Canada and Australia.

"I feel that the SEC is, in my estimation, the best whistleblower program and it's the model that other programs should be aspiring to," Inman says. "That is because it has the trifecta of protections. It has incentives, anonymity and it has protection against retaliation. Right now, it is the pinnacle."

Inman says the SEC has also been "incredibly aggressive" in pursuing the legislation, and penalising companies that have been trying to "chill" whistleblowers from coming forward. Some employers, she says, will write clauses into severance agreements so that if people leave the organisation, they give up their right to a whistleblowing reward. Many of these employers have been fined by the SEC for trying to "work around the program."

### Rewarding those who speak up

Inman recognises that the major difference between US whistleblower laws and those in other countries, such as Australia, is the issue of compensation, but she believes the international tide is turning towards the US model.

"I know that Americans are seen as litigious and mercenary, and the fear is that you incentivise people for the wrong reasons," she says. "In Australia

and [other] Commonwealth countries, the idea is that you should blow the whistle because it's the right thing to do, not because you need a financial incentive.

"However, I think people understand the reward is there less as a bounty and more as a safety net because of the repercussions that whistleblowers can suffer, such as being 'blackballed' or jeopardising their career."

Most American whistleblowers try to fix the issue from within their organisation before going straight to the regulator, suggesting that the legislation is working as intended. "If people are so anxious to get the money they will skip and bypass internal reporting, but the data shows that fewer than 3 per cent of people do that," Inman says. "Only when they are rebuffed by their employer do they then go ahead with the whistleblower program."

### The morality of receiving money

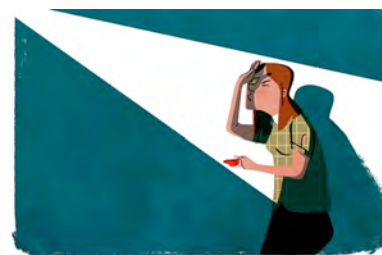


Illustration: Adam Nickel.

Woodford, however, does not agree with a compensation system, believing it "undermines the morality of the whistleblower model. ... I don't think that it is right to become a lottery winner for being a whistleblower — it is distasteful and disproportionate and gives whistleblowing a bad name," he insists.

"I think that whistleblowers should be protected and there should be a process of compensation if they have been wronged or damaged, but the law should look at each case as it stands."

Mansotte is also against a US-style compensation system, arguing that it would do "a lot of damage" to the image of whistleblowers.

"It is sending the wrong message to everybody that, yes, you can retire early and win the lottery," he says. "The danger is that people will just

sniff around to find a rat they can expose and then retire.”



“I’ll retire after turning in this one.”

For another side of the argument, look no further than Addison’s story, which is an example of how financial ruin and the loss of a career besets many whistleblowers. Addison blew the whistle on her employer, Leisurennet, in 2000 after tipping off authorities to an elaborate fraud perpetrated by the company’s two founders and joint chief executives.

Although the investigation began swiftly and prompted the collapse of the company, it wasn’t until 2007 that the perpetrators were sentenced, and they only went to jail in 2011. Meanwhile, in 2001 Addison fled South Africa in fear for her life and obtained a job as treasurer at the Virgin Group in London.

Her past followed her, however, as Virgin entered into negotiations with Leisurennet to buy its assets. In the midst of this process Addison was fired, without explanation, six months into her new UK-based job.

“I was marched off the premises like a criminal, and had no rights to challenge this under UK laws,” she says. “The Leisurennet enquiry had just got going in South Africa when Virgin was negotiating, so I was collateral damage to the negotiations because Virgin wanted to do business with the two people I had blown the whistle on.”

Finding another job in finance in the UK proved impossible as recruiters became wary of putting her name forward because she had been let go by Virgin after only six months. One told her that he had googled her and seen that she had been treasurer of a company that was in liquidation, “which didn’t look so good.”

Another said that his recruitment firm did not want to compromise its relationships with clients by putting her forward. “The outcome for me was

horrendous,” Addison says. “I ended up squatting and begging on the streets, with my 12-year-old son.”

### **Bouncing back**

After reinventing her career with her SpeakOut SpeakUp consultancy, Addison has a different perspective on whistleblowing and what advocacy can achieve. “The world has shifted in the last 12 to 18 months, and I see whistleblowers in South Africa speaking out on social media, which is incredibly brave,” she says. “Now it is about empowering people to have courageous conversations, and to speak up before things start moving down that slippery slope.

“Whistleblowers are outliers, and I understand why they have been treated the way they have been, but we now are finding another way which educates people that while loyalty to the company is a good value to have, sometimes in certain contexts you have to put fairness above it.”

Addison started work at the company which became Leisurennet in 1993, and soon observed “small ethical lapses” that over time evolved into illegality.

“I spoke out in 2000, but by then it was far too late,” she says. “By that time the misconduct had been entrenched as business-as-normal, and it is difficult to blow the whistle on something that is the norm.”

Tougher legislation, she says, is only one part of the required response. The ideal is one where employees feel able to speak up to organisations which, in turn, listen and take action before aberrant behaviour escalates, without retribution and “shooting the messenger”.

In that world, whistleblowers won’t need their #MeToo moment, but we’re not there yet.

### **New laws for Australia**

The Australian Treasury Laws Amendment (Whistleblowers) Bill came into effect on 1 July 2018. It was introduced into Federal Parliament in December 2017 with the aim of creating a single protection regime, and it updates Australia’s first whistleblower legislation, under the Corporations Act, which dates back to 2004.

Under the new legislation:

Protection is extended to former officers, employees and suppliers, as well as associates of the entity and family members of employees.

Public companies and large private companies are required to have a whistleblower policy or face a financial fine.

Disclosures can be anonymous and immunities can be extended to whistleblowers.

Fines of up to A\$1 million can be imposed on corporations and up to A\$200,000 on individuals who breach a whistleblower’s anonymity or who threaten or victimise a whistleblower.

Whistleblowers will be able to make protected disclosures to journalists and politicians if they have already made a disclosure to a “whistleblower disclosee” (which might be ASIC, APRA, the AFP, the ATO, or someone in the organisation authorised to receive disclosures, such as an auditor, actuary, director, or senior manager) and if there is a risk of serious harm if information is not acted on immediately. To qualify for protection under this provision, however, they will first have to inform a (relevant) regulator or enforcement body.

Whistleblowers will have the right to seek compensation for reprisals. Courts will be required to preserve and protect a whistleblower’s identity, unless it is in the interest of justice to do otherwise.

### **What should a whistleblower policy include?**

For whistleblowing to be effective in ending wrongdoing and protecting the whistleblower, it has to be viewed not as betrayal or disloyalty to an organisation, but as a service to society.

Here are four points any organisation should consider when creating or revising a whistleblower policy.

### **Organisational responsibility**

Organisations should have robust internal whistleblowing processes, involving third parties retained specifically for this purpose. Employees must feel that they can come forward and report any suspected wrongdoing without fear of retribution or retaliation. If the organisation is unresponsive or the process is unsatisfactory, whistleblowers must then have a clear



channel for reporting wrongdoing to regulators or law enforcement.

### **Anonymity**

The US system allows for anonymous reporting, as does the new Australian legislation. Many potential whistleblowers remain silent for fear of being identified. The Whispli solution allows for anonymous two-way communication between whistleblowers and investigators.

### **Whistleblower protection**

Many whistleblowers have lost their jobs and careers because of speaking out. Anonymity is one protection, but in cases where the whistleblower is identified, they must be guaranteed freedom from retribution and punishment. In some jurisdictions, the onus is on the whistleblower to pursue justice through labour laws. This is not best practice.

### **Compensation**

This is the most controversial issue in whistleblowing. In the US under the *Dodd-Frank Wall Street Reform and Consumer Protection Act*, whistleblowers receive a reward of up to 30 per cent of fines levied. While proponents of the US approach claim it is world's best practice, other jurisdictions such as Australia have yet to go down the same path of compensation formulas.

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## **Writing a letter to the editor: a guide**

Climate Council  
23 July 2018

SO YOU'VE SAT DOWN with your Sunday morning coffee and pancake stack, settling in for a long relaxing morning reading the paper. But before you've even managed to take a bite, a headline jumps out at you. As much as you try to take a deep breath, let it go, and enjoy the syrupy goodness of your breakfast, you find that you just can't. This one silly article is really grinding your gears. Sure, you could send a message to your group text and spend the next 45 minutes typing various strings of words, curses, and emojis to your friends while your coffee goes cold. But it's more than that. You want

everyone — the very writer of the piece, even — to know exactly what you think about this. With a crack of your neck and a squeeze of your knuckles, you have arrived: it's *Letter to the Editor* time.

### **What is a *Letter to the Editor*?**

Since the mid-18th century, *Letters to the Editor* have been key conduits for social and political discourse, ensuring topics close to the hearts of communities remain in the public eye. And even today, in our increasingly digital age, newspapers and magazines continue to publish letters written by their readers to stimulate discussion and represent an array of public opinion.

Due to their brief and direct nature, *Letters to the Editor* remain amongst the most-read sections of newspapers and magazines — online and in print. This means that whatever you write — should it be published — will be read by a large number of people with a variety of perspectives: neighbours, MPs, and mayors alike.



### **Why should you write?**

Whether responding directly to a specific article or simply sharing your own thoughts, a *Letter to the Editor* can be a powerful tool for sparking conversation and can help keep the topics that impassion you in the public eye.

So you know what it is and why you should write one. The pen you pulled out to do the cryptic crossword with is now clenched between tense fingers: you're passionate, you're compelled, and you're ready — but wait: how do you actually go about writing it?

### **How do you write it?**

#### *Open with a greeting*

Something as simple as "To The Editor" will do; however if you know the editor's name, use it — this may increase the possibility of your letter being read and published.

### *Spark the reader's attention*

Your opening sentence will be vital for the success of your letter: it should immediately inform readers what you're writing about, and entice them to keep reading.

If you are writing in direct response to a previously published article, cite its date and title in the first sentence. If not, introduce your argument clearly, and go from there.

*Following the opening, the structure of your letter should go something like this:*

1. Give a persuasive explanation of why the issue is important.
2. Provide reputable evidence to substantiate claims.
3. State your opinion about what should be done/possible remedies to the issue.
4. Sign off with your name and contact details (these won't be published, but the paper may use this for follow up or verification).



And that's it! You've written a *Letter to the Editor*! To make sure it's worthy of publishing, however, keep in mind these quick tips.

- Make it short and sweet.
- Make it timely and relevant.
- Make it personal, but don't attack the editor, newspaper or journalists.
- Edit and proof.
- Follow newspaper guidelines.

**Don't give up!** Newspapers and magazines receive a huge number of letters — far more than they have room for, so don't be disheartened if you don't see yours published straight away. Keep writing, because dedication and persistence pay off.

[This is an abridged version of the full article, which contains examples, available at <http://bit.ly/2QmtM0H>.]

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## Conference and annual general meeting

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### Conference

Saturday 17 November 2018  
8.15am for 9am

### Speakers

David Carruthers — on turning ruin to advantage  
Michael Cole — not-for-profit corruption: getting away with it, easy peasy, lemon squeezy  
Maggie Dawkins — exposing child sexual abuse at Katanning  
Inez Dussuyer — understanding and responding to victimisation  
Jason Fairclough — #MeToo: Men for cultural change  
Sally Harding — safety in extreme sports, not an oxymoron  
Ken Smith — on stalking whistleblowers

### AGM

Sunday 18 November 2018  
8.15am for 9am

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

**Getting to the venue** from Parramatta railway station. Go to Argyle street, on the south side of the station. Find Stand 82, on the station side of Argyle Street. Catch bus M54, at 7.48am, 8.07am or 8.26am or 655 at 8.20am. Ask the driver to drop you off at Masons Drive. Then, it's 2–3 minutes walk, on your left. Check <https://transportnsw.info/> for other options.

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

**Members** \$45 per day  
This charge will be waived for interstate members.

Optional dinner onsite 6pm Saturday night: members \$25

### Bookings

Notify full details to treasurer Feliks Perera by phone on 0410 260 440 or at feliksfrommarcoola@gmail.com or president Cynthia Kardell (for phone/email see below under enquiries).

### Payment

Mail cheque made payable to Whistleblowers Australia Inc. to the treasurer, Feliks Perera, at 1/5 Wayne Ave, Marcoola Qld 4564, **or**  
pay Whistleblowers Australia Inc by deposit to NAB Coolum Beach BSB 084 620 Account Number 69841 4626 **or**  
pay by credit card using PayPal to account name [wba@whistleblowers.org.au](mailto:wba@whistleblowers.org.au) (our email address).  
Use your last name/conference as the reference.

### 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](mailto:service@unitingvenues.org)

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

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## Whistleblowers Australia contacts

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**Postal address** PO Box U129, Wollongong NSW 2500

**Website** <http://www.whistleblowers.org.au/>

**Facebook** <https://www.facebook.com/Whistleblowers-Australia-Inc-172621456093012/>

### Members of the national committee

[http://www.bmartin.cc/dissent/contacts/au\\_wba/committee.html](http://www.bmartin.cc/dissent/contacts/au_wba/committee.html)

### Previous issues of *The Whistle*

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

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Thanks to Cynthia Kardell and Margaret Love for proofreading.

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## Whistleblowers Australia conference

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See page 19 for details

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### Annual General Meeting

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Whistleblowers Australia's AGM will be held at 9am Sunday 18 November at the Uniting Conference Centre, North Parramatta (Sydney). See page 15.

**Nominations** for national committee positions must be delivered in writing to the national secretary (Jeannie Berger, PO Box 458, Sydney Markets NSW 2129) at least 7 days in advance of the AGM, namely by Sunday 11 November. Nominations should be signed by two financial members and be accompanied by the written consent of the candidate.

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



### Whistleblowers Australia membership

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

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

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

Renewing members can make your payment in one of these ways.

1. Pay Whistleblowers Australia Inc by online deposit to NAB Coolum Beach BSB 084 620 Account Number 69841 4626. Reference your surname.
2. Post a cheque made out to Whistleblowers Australia Inc with your name to the Secretary, WBA, PO Box 458 Sydney Markets, Sydney, NSW 2129
3. Pay by credit card using PayPal to account name [wba@whistleblowers.org.au](mailto:wba@whistleblowers.org.au). Use your surname/membership as the reference.

New members: [http://www.bmartin.cc/dissent/contacts/au\\_wba/membership.html](http://www.bmartin.cc/dissent/contacts/au_wba/membership.html)