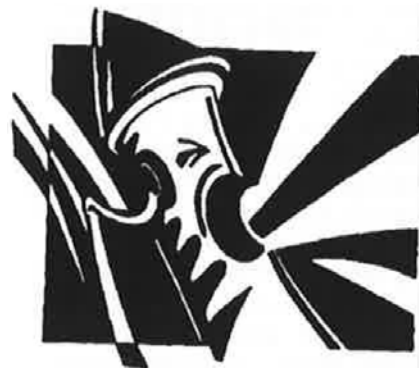


"All that is needed for evil to prosper is for people of good will to do nothing"—Edmund Burke



The

Whistle

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New national policy unveiled:



disinfectant



Designed to keep government safe

— from us

Cynthia Kardell

TIMOR L'ESTE whistleblower Witness K, his lawyer Bernard Collaery, the Afghan Files whistleblower David McBride and ATO whistleblower Richard Boyle have become proxies in the government's war on us, the people. The government's message is clear and unequivocal: "Don't try to disturb our preferred narrative with your inconvenient truths, unless you and your journalists want to be criminally prosecuted for acquiring, copying, receiving and or disclosing our illegal ways."

This is the dreadful reality of "terror" laws legislated since 9/11 that government says are needed to keep us safe.

We have only started talking about it in these terms since the AFP raids on News Corp journalist Annika Smethurst and the ABC in June and we need to do it much more, because history says there's always a pattern. If you treat asylum seekers on Manus and Nauru as illegals, then they become illegals. Treat journalists as persons of interest for long enough and they will become criminals in the minds of those, who prefer to believe they must have done something wrong. Why else would government do it, they ask each other? It's the usual, blame the victim and reassure yourself that you're right, they're wrong, because it isn't happening to you. Hitler started in this way, which is one reason why history says it is more likely to be a very bad law in the hands of an abusive government.

Laws designed to rebadge asylum seekers as well-heeled queue jumpers, turn back the boats and operate offshore detention camps have allowed the government to terrorise those unfortunate souls, who were fleeing in fear for their lives by boat — *as if we were on a war footing!* But we're not, and it couldn't be further from the truth, because more asylum seekers come in through Qantas than by boat. But we've mostly bought it hook, line and sinker, preferring to see ourselves as special and more deserving than an asylum

seeker. Look around you, we're being terrorised by our own government, becoming deaf and blind to even the possibility that our differences are being exploited by political interests.



Centuries old legal precepts in criminal law have been turned on their head, with each element of a criminal offence turned into an offence in and of itself — to make it easier for government to incarcerate the few with inconvenient political and religious beliefs more easily at the expense of the many. And more recently, the potential for cyber-attacks on our public utilities has been talked up to soften us up to accept that the Australian Signals Directorate (ASD) should be allowed to spy on us to keep us safe.



As these laws have been expanded, so too have the ways that our "national security interests" are being deployed by government to protect their interests. For example, the government obtained suppression orders in criminal proceedings against Reserve Bank of Australia (RBA) subsidiary Securrency Pty Ltd and its executives on "national security" grounds. The reality was quite different. The government wanted to protect RBA executives, the former Malaysian prime minister Najib Razak

and itself from being caught up in the allegations of bribery and fraud that were swirling around our region. This is why so few got to know that the RBA executives pleaded guilty and the RBA quietly agreed to pay a \$20.6 million penalty under the proceeds of crime act until after Najib Razak lost office, when he was charged with multiple counts of fraud. It is clear government's claim that our national security interests were at risk was always *a ruse to keep those like you and me in the dark, in order to keep our blind faith (in them) largely intact.*

By expanding the scope of national security, the government has moved us inexorably towards becoming more risk averse. Elections are enthusiastically stoked with lying spin, slogans and scare campaigns, all designed to exploit our ignorance, apathy and bias by wedging us, one against the other.

The more attentive will know the government's version of events has come under fire many times, but none with more devastating consequences than when former Office-of-National-Assessments analyst (now independent MP) Andrew Willkie revealed on prime time television that regime change was the government's reason for taking us to war in Iraq. Former prime minister John Howard lied to us. It was propaganda. There were no weapons of mass destruction and *no threat to our national security.* Saddam Hussein had no designs on Australia.

The government lied to ensure we were scared, but willing to go along with its decision. We trusted, in them. It is sobering to know now that the Iraqi war spawned ISIS with all its attendant grief, refugees and worldwide destruction. Which is why we can't take government at its word anymore. When there are competing narratives, we need to get to the bottom of it and hold government and its operatives to account. Why? Because the government's position is clearly that whether it acted illegally is nobody's business but theirs!

The narratives below are examples of what the government refuses to concede.

- In 2004 government illegally bugged Dili's cabinet room during negotiations, leading to the 2007 Certain Maritime Arrangements Treaty (CMAT). In 2012 it illegally seized Timor L'este's documents concerning their spying allegations and stopped Witness K giving evidence of the bugging in the International Court of Justice in The Hague. Timor L'este wanted the CMAT set aside for a new boundary, straight down the middle. They won, so they got title to their own offshore assets. In 2018 the Australian government colluded with oil and gas giants ConocoPhillips and Woodside to pressure Timor L'este into processing the LNG through an existing Conocoled LNG plant in Darwin. Government is punishing Witness K and lawyer Bernard Collaery for the new boundary and loss of future LNG revenue.



- In 2013 the Australian Taxation Office (ATO) illegally directed its staff to issue garnishee notices to seize funds from small business bank accounts without notifying a debt. In 2017 the ATO conceded the facts, but not the intent, withdrew the policy and punished whistleblower Richard Boyle by charging him with criminal theft.

- Special forces personnel in Afghanistan may have committed war crimes between 2009 and 2013. There were at least ten incidents in which special forces killed insurgents and unarmed men and children, including a man and his six-year-old child, and a detainee, and that *were covered up and kept secret* by government. The government has punished whistleblower David McBride by charging him with criminal offences for exposing their crimes.

The government maintains they threatened Australian national security interests.

Timor L'este never threatened our national security. Claims that it did or does turn out to have been bald faced

lies, to keep the theft of another country's assets secret and out of our sight. We have reaped the benefit of billions of dollars in stolen goods, since Timor L'este's oil and gas reserves were first exploited by us in the 1970s. The Witness K, Bernard Collaery story was the catalyst for discovering every nasty twist, in a tale of excruciating greed and venality stretching back to the 1960s, when government unilaterally gave Woodside a permit to explore in (then) Portuguese waters.

In 2007 the government forced Timor L'este to sign the CMAT treaty, which provided Timor L'este with a 50% share of its *own resources* in return for a fifty-year moratorium on negotiating a maritime boundary. Timor L'este was a newly independent, poverty stricken neighbour. It had no choice. Our government would have us believe that its theft is in our national interest. Witness K and Bernard Collaery's intervention in 2012 made it possible for Timor L'este to have the moratorium set aside. On my reading of the events, the subsequent prosecution of both men in 2018 is payback for depriving the government of billions of dollars in stolen revenue for the next fifty years. The prosecution is to be held in secret, which is the government's way of keeping their dirty narrative alive. So, it can continue to deny the truth by denying you and me the validation that is rightfully ours.



East Timor

The prosecution of ATO whistleblower Richard Boyle is no different. The ATO is paying him back for exposing its more venal qualities in the hope that most of us will not remember why he needed to gather the evidence in the first place. All so its preferred narrative can thrive. Now the ATO might be right in hoping for that, but I think times have changed. Which is

why it would be better for them to withdraw the prosecution to reassure us that the ATO can be relied upon to police itself when it matters most. It is after all our money being squandered to shore up their myth.



Richard Boyle

Former defence lawyer David McBride is being prosecuted for leaking official secrets that allegedly prejudice Australia's military defence or security under Criminal Code secrecy provisions, which were expanded and subjected to harsher penalties as part of last year's "foreign interference" legislation. Outside the ACT Supreme Court on July 11, McBride explained his predicament this way, as reported in the *Sydney Morning Herald*.

"It's 10 years ago, about what people shot someone in Afghanistan, what the minister may have said. I mean, how are our enemies — the Russians, the Chinese — how is that going to be used against us? The government should be made to say why can't you reclassify these things, what is truly secret about it?"

Asked why people should take an interest in his case, Mr McBride said: "If we don't stop this trajectory now, in five, 10 years' time, this will be an absolute police state, where there's no difference between a spy and a journalist."

He makes a lot of sense. It can't possibly have made it any more unsafe militarily since the media broke the story in 2017 as it has always been publicly known in Afghanistan. It's obvious why the government would not want it leveraged against them publicly, because the war has sponsored the spread of terrorist organisations worldwide. Plus, cabinet's decision never had public support.

We need to know to what degree the government has put its political interests ahead of all other considerations and when it has jeopardised national security. For example, Australia does

like to wave the finger at China for unilaterally turning a series of rocky half submerged “features” in the South China Sea into deep water military bases, to the chagrin of surrounding countries. But China isn’t quaking in its boots and no doubt sees the irony of our government’s land grab, which eventually robbed an impoverished, newly independent Timor L’este of billions of dollars. They must have really appreciated the 2007 CMAT agreement, which identified our government as one of their own. Venal self-interest isn’t new, but China must really enjoy seeing western governments trying so hard to remake themselves in their image, with the increasing emphasis on controlling their own citizens.

The rules-based system has always been a very privileged club for those willing to allow them to deceive their domestic audience with impunity which is why — as they all shuffle to the right — journalists have become such a threatened species. Because a free press is fundamental to a functioning democracy triumphing over executive power, when it really matters. Like now.



Journalists report on threatened species. Should they start reporting on their own risk of becoming extinct?

Government asks what changes could be made to better balance our need for press freedom with the need to investigate serious offending and obtain intelligence on security threats. The question assumes a hierarchy with freedom of the press very much in second place. It’s the sort of reasoning that flies in the face of western history. We know that well informed, better educated and more equitable populations require less active policing on the ground than others. That is, society is safer, more civil and more tolerant as the population becomes better informed. The approach taken by those who have drafted these “terror” laws contemplate a society that operates more like a war zone, where intelli-

gence and law enforcement needs dominate — that’s a police state in the service of the executive. Which is why I single out Witness K, his lawyer Bernard Collaery, David McBride and Richard Boyle for a special mention. In a functioning democracy they deserve our respect, admiration and gratitude, not prison. If they go to prison it will have accelerated the transition to a police state.

Cynthia Kardell is president of Whistleblowers Australia.

Alwyn Johnson

by Kim Sawyer



Alwyn Johnson

WE ARE ALL INDEBTED to Alwyn Johnson. At least we should be. On 2 September 1993 Senator Jocelyn Newman (Tasmania) moved a motion that was approved by the Senate:

That a select committee, to be known as the Select Committee on Public Interest Whistleblowing, be appointed to inquire into and report, on or before the first sitting day in March 1994, on the following matter. Whether the practice of whistleblowing should be the subject of Commonwealth legislation to enable the making of such disclosures in the public interest and, if so, what form the legislation should take.

The motion established the first Senate inquiry into public interest whistleblowing that laid the foundations for what has followed. Senator Newman chaired the Committee. The Committee received 137 submissions mostly from whistleblowers. The Committee reported in August 1994 with 39 recommendations and at the time it was the most comprehensive study of Australian whistleblowing. It remains a benchmark of what is politically possible.

In speaking to the motion on 2 September 1993, Senator Newman offered these words:

The whistleblowers who have come to my attention have not gone public. There is a misapprehension abroad that whistleblowers are somehow disloyal to the organisation for which they work because they go public. Frequently, they do not go public; they go to a very senior officer and then the organisation punishes them accordingly. I have had this concern for a long time. What finally moved me to take action was not a case in the public sector but a case in the private sector, in my home state of Tasmania.



Jocelyn Newman

That case was the case of Alwyn Johnson. Alwyn had two whistleblowing cases. One case is profiled in a book by Damian Grace and Stephen Cohen. It is a study of retaliation against a whistleblower who sacrificed their career for the public interest. It is symptomatic of a culture gone wrong. Alwyn had extensive experience in banking at the National Australia Bank in Melbourne where he received laudatory references as underwriting manager. He accepted a position as chief manager at the state-owned Tasmania Bank; but soon after he began work there he identified an exposure to non-performing loans to property developers on the mainland. Some individual loans were equivalent to 30% of the

bank's capital. The Reserve Bank of Australia regarded any bank that lent more than 10% of its capital to any one entity as entrepreneurial. As a result the bank would be required to hold additional capital. The RBA failed to pick up on Tasmania Bank's entrepreneurial lending.

Non-performing loans are a problem for a bank. In the worst case they can lead to bank insolvency and bank runs. The State Banks of Victoria and South Australia both collapsed because of non-performing loans. Alwyn warned his supervisors about the non-performing loans but they ignored him. In June 1990 he wrote an anonymous letter to the Premier of Tasmania Michael Field. External auditors were brought in and in November their findings were tabled. A \$150 million exposure was revealed and the bank's managing director resigned. The writer of the anonymous letter was thanked by the Board. In his testimony to the Senate Committee on January 28 1994 Alwyn summarised the case:

After some time all the things identified in my letter were identified by the external auditors and the managing director resigned and things were put in place to overcome the problems and weaknesses that existed. So really it worked perfectly.

This is how whistleblowing is supposed to work. His second case showed it usually doesn't. The second case began the following year. In March 1991 Tasmania Bank merged with the SBT bank to form the Trust Bank.



The Trust Bank was a private bank. There was a government representative on the board but it was not owned by the government. There were no shareholders. The corporate structure made it

difficult for someone to blow the whistle. Alwyn identified serious problems at the highest levels of the Trust Bank. As in the previous year he approached the Premier of Tasmania and the government representative on the Board of the Trust Bank. They were unresponsive. There were limited options. There was no whistleblowing legislation. There was no public interest disclosure agency. Banking regulation was flawed in 1991; and it is still flawed as the recent Royal Commission showed. Alwyn turned to the only possible regulator, the Governor of the Reserve Bank of Australia Bernie Fraser. That's where his problems began. It is a story of regulatory failure.



Bernie Fraser

On 1 July 1991 Alwyn advised Fraser of the problems at the Trust Bank. On 2 July Fraser rang Paul Kemp the CEO of the Trust Bank. On 3 July Alwyn was sacked. It was the one-two-three punch of whistleblowing. Blow the whistle, your confidentiality is breached and then you are retaliated against. It was a textbook case of whistleblower reprisal. As in every whistleblowing problem there were three parties: the whistleblower, the regulator and the respondent. Alwyn Johnson was a credible whistleblower. He had twenty years' experience in banking. He had strong references from his previous employer. He was so well regarded that Alan Cullen, Executive Director of the Australian Bankers Association, advised Fraser:

Look, I have investigated Alwyn Johnson's background and I think you should pay attention to what he wants to tell you.

Alwyn had stopped the haemorrhaging at the Tasmania Bank. He should have been listened to but the Governor of the Reserve Bank did not listen. He did not address the corruption. He did not protect the whistleblower.

Australia regulation is replete with evidence of regulatory failure where regulators do not seem to understand the long-term consequences of their inaction. The Reserve Bank Act Section 10(2) states that the Reserve Bank Board has the power to determine the policy of the Bank in relation to any matter other than its systems payments policy. Fraser was being asked to regulate a bank that should have been regulated. The Trust Bank was a private bank but it was the largest bank in Tasmania with 45% of all bank deposits in Tasmania. Corruption weakens a bank. Alwyn's concerns should have been investigated without breaching his confidentiality. The Governor should have used his powers to appoint external investigators. Instead he sacrificed the whistleblower. Fraser knew that Alwyn would be dismissed. In a letter to the Senate Select Committee on Public Interest Whistleblowing Fraser stated:

Mr Kemp told me that decisions had been taken to terminate the services of seven employees the following day (3/7/1991), six of whom would be leaving voluntarily and one (Mr Johnson) involuntarily.

Bernie Fraser failed Alwyn Johnson. He failed us all.

Regulators often respond differently to a parliamentary committee than to a whistleblower. Window dressing protects regulators but not whistleblowers. At a Senate Committee hearing in March 1994 Senator Chamarette asked Les Austin, Assistant Governor of the RBA:

If a bank officer became a known whistleblower, to what extent do you consider that his career path might be interrupted? Does the Reserve Bank play a role in protecting people in that area or how could a whistleblower's career be protected if they were in that situation?

The Assistant Governor responded:

If that were to happen to a whistleblower, we would certainly expect that the person would not be disadvantaged for having revealed information to us. If it was alleged that that had happened, we would certainly take that very seriously as well and we would pursue that with the bank concerned. Many things happen in banking based on moral

suasion. We are fairly confident that we would be able to look after the interests of any person in that position.

The RBA failed to protect Alwyn Johnson. The RBA failed to own up to their mistake. As in many whistleblowing problems the regulator became the underwriter of corruption.

In a letter to Alwyn on the day of his dismissal, Kemp revealed the reason for his dismissal

The Bank has been advised that you have made contact with various individuals and bodies in order to provide what can only be described as scurrilous misinformation about the Bank's affairs. At least some of the recipients of this most improper communication have expressed their concern not only as to the content, which was properly recognised for what it was, but also regarding the fact that a senior employee would see fit to embark upon an exercise which reflected so poorly upon himself.

This letter reflects poorly only on one person, Paul Kemp. It is a retaliatory letter. Dr Jean Lennane often spoke of the gap between the career path of the respondent and the whistleblower. Alwyn's case demonstrates the gap better than most. Kemp continued as CEO of the Trust Bank for seven more years. Alwyn was unemployed for long periods. He never worked in banking again. It was a loss for Alwyn. It was a loss for all of us.

Alwyn continued to write to Fraser requesting he intervene in the problems at the Trust Bank. Letters on 28 January 1993 and 24 March 1993 detailed four areas of corruption within the bank. But Fraser continued to be unresponsive. Fraser wrote to Kemp on 23 July 1993 to bring the matters to an end. It may have ended for Fraser. Fortunately it did not end there. On 10 December 1998 Senator Murphy (Tasmania) gave a speech in the Senate where he alluded to the impropriety of Kemp in the use of the Trust Bank's assets. Three days later it was announced that Kemp would be leaving the bank. A new CEO was appointed and consultants appointed. The consultants advised that the bank was in serious trouble and should be sold. In an overview written on 15 November 1999, Dr Crean, the State Treasurer of Tasmania, revealed

that the Trust Bank was about to be downgraded to BBB (minus), equivalent to the status of a junk bond. The bank was sold to the Colonial Bank for nearly \$150 million and the funds used to retire State Government debt. For a second time the taxpayers of Tasmania were beneficiaries of the whistleblowing of Alwyn Johnson.

On 17 February 2000 Senator Murphy made a speech in the Senate detailing allegations of impropriety in relation to the use of Trust Bank's assets during the tenure of Paul Kemp. The speech must be read to understand the corporate culture of the Trust Bank. Alwyn was supported by Senators Brown and Milne (Tasmania) who continued to probe allegations in the Parliament. But Alwyn was not supported by either of the major parties in the Tasmanian state parliament. Like the Governor of the Reserve Bank they did not act. They had no sense of natural justice.

Finally on 12 August 2000 Prime Minister Howard announced an inquiry into Alwyn's case during a speech to the Tasmania Liberal State Council. Howard said that he had studied Alwyn's case in 1991 when he was Federal Industrial Relations spokesman and believed "Mr Johnson was a victim of a great injustice." Indeed he was.



John Howard and Alwyn Johnson, 9 August 2003 at Tall Timbers Tasmania, Smithton, Tasmania

The inquiry was conducted by Neil Brown QC, a former Minister in the Fraser Government. Neil Brown reported in August 2003 and found unequivocally in Alwyn's favour, that "Mr Johnson deserved compensation for wrongful dismissal and loss, pain and suffering, defamation and loss of the amenities of life". On 11 August 2003, the *Launceston Examiner* ran with an editorial headed "We Owe a Debt to Alwyn Johnson". On the same day the *Hobart Mercury* led its editorial with "Alwyn Johnson's Victory." A victory; but at great cost.

In a speech to the Senate on 13 August 2003, Senator Murphy reflected on the findings of the inquiry. An extract summarises the sentiment of many who have studied his case:

It is heartening to see that Neil Brown, a former member of the House of Representatives, found in favour of Mr Johnson — and correctly so, because this is a matter I have also followed for a long time. A great injustice was done to Alwyn Johnson by consecutive state governments, both Liberal and Labor, neither of which was ever prepared to have a proper inquiry into the circumstances surrounding Alwyn Johnson's unfair and wrongful dismissal from the Trust Bank.

Senator Murphy's comments were echoed by Christine Milne in a speech to Whistleblowers Australia conference in November 2012. Senator Milne listed three contributions of Alwyn's whistleblowing. First the saving of 700 jobs by preventing the collapse of Tasmania Bank; secondly the sale of Trust Bank for \$150 million; and thirdly the establishment of the Senate inquiry that first recommended comprehensive whistleblowing laws.



Christine Milne

The problem that remained was compensation. How to compensate a whistleblower who has lost their career, who has paid the price for the corruption of others? Alwyn had waited twelve years for justice. It was always going to be too little, too late. There is no formula for compensating a whistleblower but logically it should be linked to the benefits conferred. Under the United States FCA whistleblowers are entitled to between 15 and 30 percent of fraud recovered. The compensation averages 17 percent. The FCA is so effective because it compensates whistleblowers for the risks taken on behalf of others. Since 1986 the US has recovered \$59 billion under the FCA. Whistleblowers were responsible for \$42.5 billion.

In Australia we don't often get the opportunity to do a similar calculation. Alwyn's case is an exception. In his first case he saved the Tasmania bank from an exposure of \$150 million. The second case was more compelling. Through the sale of the Trust Bank to the Colonial Bank, \$150 million of Tasmania government debt was retired. Alwyn has calculated that interest saved on the retired debt amounts to \$190 million. I agree. In sum the sale of the Trust Bank precipitated by Alwyn's actions saved Tasmanian taxpayers at least \$300 million. The savings could have been more. The Trust Bank had a market value of \$300 million in 1995. Within three years its value halved. The most conservative estimate of the benefit of Alwyn's whistleblowing would be tens of millions of dollars passed on to taxpayers and depositors. Alwyn received a compensation payment of \$120,000 in 2003, less than 0.1% of what he saved the taxpayers of Tasmania. Furthermore he was denied a payment in 1991 of \$92,000 when Premier Field intervened because of a question from Bob Brown in the state parliament. Compensation to whistleblowers should never be at the behest of politicians. As the financial journalist Terry McCrann wrote in August 2003:

If Mr Johnson is not compensated for the cost of his whistleblowing it would set a very bad precedent for future whistleblowers.

It did. Alwyn deserved more, much more. It was a measure of how Australia regards its whistleblowers. We

should never underestimate the cost of not listening to whistleblowers. We should never underestimate the benefit of listening to them.

Politicians, regulators and others often refer to the need to change our culture. The Banking Royal Commissioner Kenneth Hayne recently criticised the political establishment, accusing it of being captured by vested interests, destroying public faith in institutions and reducing policy to three-word slogans. We all know he is right. From universities to banks, our institutions have been corrupted by those who put private interest before the public interest. Our culture allows corruption to fester when it sacrifices whistleblowers. Our culture must change but it can only change if we acknowledge the wrongs of the past and then right them. A great injustice was done to Alwyn Johnson. He was the type of regulator we needed. Yet he had to regulate from his kitchen table rather than from Martin Place. He deserved better.

The taxpayers of Tasmania should be indebted to Alwyn Johnson. The whistleblowers of Australia should also be indebted to him. Let's hope future generations understand.

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

A YouTube whistleblowing saga

Magdalene D'Silva

A 2019 SAGA between two YouTube beauty vloggers shows that anyone who publicly questions alleged dishonest, harmful or exploiting conduct can be a whistleblower. Traditional ideas of whistleblowing seem to characterise whistleblowers as a group identity with shared features, goals and ideals. But in this article I refer to a major YouTube saga to explain why blowing the whistle is really an ethical choice made daily by millions of people in various situations not limited to formal organisations, companies, governments or institutions.

Tati Westbrook and James Charles



Tati Westbrook

Tati Westbrook is a 37-year old in Los Angeles. Her main career for about a decade has been running a full-time beauty YouTube channel with nearly 10 million subscribers, whilst operating her beauty vitamins company Halo Beauty. Westbrook uses her YouTube channel to review unsponsored beauty items and to give tips on cosmetics make-up application, sometimes featuring celebrity guests.



James Charles

James Charles is a young man who also runs a Beauty YouTube channel with over 15 million subscribers, on which he showcases his make-up artistry, his products (such as make-up palettes) and also reviews other brands' cosmetics, either on his own or with other people including celebrity guests. Charles' meteoric rise to fame and success is such that he was the first male face of major female cosmetics brand Covergirl at 17 years of age, and was invited to the exclusive New York Met Gala in 2019. Charles apparently identifies as male and gay and describes himself on his YouTube channel as a

“19 year old kid with a few blending brushes.”

According to their YouTube videos, Westbrook apparently befriended Charles some two years ago when he moved to Los Angeles to establish his YouTube career. Westbrook and her husband mentored Charles personally and professionally in surrogate parental roles, with Westbrook featuring and promoting Charles on her YouTube channel and flying him to her wedding to do her wedding make-up.

Westbrook's 2019 public YouTube disclosures

Westbrook “blew the whistle” on Charles in a May 2019 YouTube video called “Bye Sister,” in which she announced her choice to end her personal and professional connection with him. Westbrook effectively alleged that Charles had committed unethical conduct by promoting one of her direct vitamin brand competitors. She also alleged that he had effectively sexually harassed a male waiter at her birthday celebration in a restaurant. Westbrook’s “Bye Sister” video gained over 45 million views in days (far more than the usual one million views for her videos).



Westbrook said she would not disclose all facts and evidence (such as phone text messages) but explained why she chose to air her concerns publicly without first speaking to Charles privately. These reasons included that she felt under pressure that if she did not publicly disclose first, her words would be twisted against her (as had apparently already happened before).

Charles responded immediately with his own YouTube videos, the first being a tearful “apology” he recorded and released while on a promotional tour in Australia. Millions of Charles’ YouTube subscribers swiftly judged his apology to be inauthentic and unsubscribed from his YouTube Channel

(which apparently translates to major financial loss). Anecdotal social and mainstream media reports showed disgruntled customers destroying Charles’ products (such as his eye-shadow palettes).



A critical take on Charles’ apology

Westbrook then posted a second tearful YouTube video herself called “Why I Did It”, explaining her reasons for her first video, whilst calling for the public “hate to stop.” Westbrook seemed to share public viewers’ concerns that Charles’ apology YouTube response was dishonest. However, she also mentioned her ongoing friendly love for Charles despite ending their personal and professional connection. Charles swiftly removed his apology YouTube video and replaced it with a new video called “No More Lies,” in which he strongly denied Westbrook’s allegations, showed text message receipts to refute Westbrook’s allegations and thanked her for accepting some responsibility. The male waiter who was the subject of Charles’ alleged inappropriate or harassing romantic advances also posted YouTube videos disclosing publicly his version of events, which seemed to verify some of Westbrook’s allegations.

For a time, Charles lost millions of YouTube subscribers. But he seemed to regain them after his “No More Lies” video, which remains on his YouTube channel. Westbrook’s and Charles’ YouTube videos gained more than 45 million views *each* in a matter of days. Furthermore, this YouTube saga gained international mainstream media coverage, with scores of supporting or critical YouTube video commentary from around the world, many of which also collectively gained tens of millions of views.

Is whistleblowing “narcissism” — or narcissism’s “disruptor”?

Westbrook described Charles’ behaviour to her as demanding, entitled,

unempathic and pre-occupied with image. Although people who blow the whistle are often unfairly discredited as mentally unstable, anarchistic and “narcissistic,” in this YouTube saga it was Westbrook who seemed to blow the whistle on another’s alleged narcissism.

My interpretation of narcissism follows an emerging new understanding of narcissism as a widespread community rewarded destructive personality pattern characterised by deceit, ruthless self-interest, manipulation, and targeted exploitative control and domination of others. Pop-psychology discourse and self-help abuse victim survivor social media community forums indicate that narcissism and narcissistic people are far more prevalent all around us than is allowed for by the psychiatric DSM 5 version of narcissistic personality disorder. Some psychiatry circles dispute their own profession’s definition of narcissism which is apparently so rarely diagnosed by psychiatrists that at one point the American Psychiatric Association considered voting it out of existence. Public cries for the US President to be diagnosed with “narcissistic personality disorder” have been rejected by some psychiatrists because all psychiatric diagnoses are supposed to be for those suffering significant distress or impairment (which the US President apparently does not).

I thus agree with emerging community views that narcissism is far more common in our community than most people realise, and it is now what some academic clinical psychologists (such as Ramani Durvasula PhD) warn is “the new normal.” Whilst I pass no judgement on Westbrook’s or Charles’ characters, nor the truth or otherwise of Westbrook’s public comments and Charles’ responses, their respective YouTube videos indicate that one person (victim) felt they were exploited and deceived by another (aggressor). Millions of YouTube viewers and subscribers were then unwitting bystander third parties in what I call a narcissism drama triangle (adapted from Stephen Karpman’s Drama Triangle Theory).

I therefore see narcissism as an unethical triangulated relationship system (not just as an individual psychiatric disorder) which somehow involves an innocent victim (often whistleblower), an aggressor (dominat-

ing controller) and third-party rescuer (bystander enabler). Westbrook was thus not a narcissist in this YouTube saga. (Some say all YouTube vloggers are narcissists.). Instead, Westbrook was possibly a victim of narcissism who felt ethically compelled (as whistleblowers feel) to blow the whistle on it. (Note that in this scenario, Charles was not necessarily a narcissist.) So, wherever the pressure for whistleblowing arises, there is likely to be a narcissistic person (or people) on whom the whistle needs to be blown.



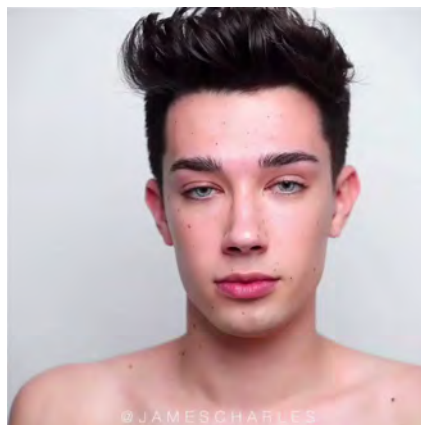
Westbrook and Charles in better times

Are public YouTube disclosures social media shaming — or the new whistleblowing?

Social and mainstream media reporting of this YouTube saga described it as “drama,” “confessing in public,” “calling out on social media” or the rise of “cancel culture.” There were few if any accounts of it as whistleblowing. It’s important to note Greg Lukianoff and Jonathan Haidt’s helpful 2018 book *The Coddling of the American Mind: How Good Intentions and Bad Ideas Are Setting Up a Generation for Failure* which argues that social media (such as YouTube) is a less authentic form of human communication between people, as it is more a form of display that puts recipients on notice that what will or won’t be said, is determined by the (positive supportive) response of thousands (or millions) of watching bystander strangers. Social media such as YouTube can be criticised fairly as an *en masse* instant forum of undemocratic social control that some say is less about truth than it is about abusively controlling others by using shame, censorship and intimidation to *personally demonise people* who share dissenting ideas, arguments or thoughts.

To some degree, this seems akin to how our legal system already operates to regulate our conduct towards

ourselves, to each other and with our world. Perhaps the difference is the immediacy and lesser (or non) transparency of social media in which the social control culture of our families and friendships is replicated and multiplied a thousand or million fold, but with secret censors sitting at private head offices, arbitrarily banning people according to the private terms and conditions of each social media network (twitter bans, YouTube demonetisation, LinkedIn warnings and so forth). In our legal systems, what is alleged and pursued against people, as a crime or a civil suit, is also largely determined by community standards of strangers in our national society who determine what is considered “reasonable” and acceptable in law, via our parliaments and courts. Perhaps the real difference is that traditional whistleblowing to a formal regulator such as our legal system (which I distinguish from private alternative dispute resolution outside the courts) are supposed to be by and for the public interest, only. By contrast, “social media justice” of calling out, censorship and cancel culture, is run by private interests for private interests.



James Charles without makeup

But in this YouTube beauty guru saga, I suggest that this line was blurred because it involved using a privately run social media platform (YouTube owned by Google) to publicly disclose *actual* specific events of alleged material and/or physical conduct (commercial betrayal, promoting dangerous vitamin products and open acts of public sexual harassment) that Westbrook felt were harmful directly to her as a private individual *and harmful to millions of children in the public*.

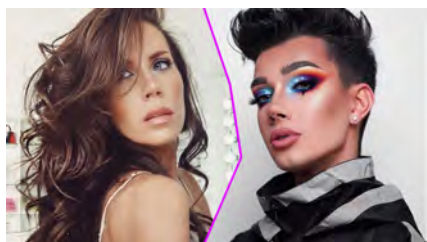
Indeed Westbrook’s concerns about harm to children would arguably support Jonathan Haidt’s meritorious view that all children up to at least the age of 14–16 years, should be banned from accessing all forms of social media. Also, Westbrook seemed to go to great lengths in her videos to emphasise her concerns about Charles’ alleged conduct — not him personally. Indeed this was why she said she posted a second YouTube video, to try to curb the social media shaming “hate” backlash against Charles personally, consistent with the social media warnings by those such as Jonathan Haidt.

I thus suggest that this YouTube saga was a form of whistleblowing and here’s why. Whilst it did not involve a formal organisation, it still had the usual whistleblowing ethical features. For example, it was Westbrook who feared a personal and professional backlash, for dissenting and speaking up about Charles (because he surpasses her social media influence, power, popularity and financial success). Westbrook said she felt embarrassed (“this is messed up”) for “being scared of a 19 year old.” A twitter post she published directly to the general public on 10 May 2019 said that “if you’re scared to speak up ... it usually is a sign that you should.” Westbrook presumed she would “take the hit” for publicly stating her concerns about Charles’ alleged conduct, saying that “if I fall apart because people don’t like what I have to say and that I said it loud here on my channel, I guess that’s on me.” Unless Westbrook secretly thought that any public backlash would really be against Charles and not herself, then this seems to contradict some of Jonathan Haidt’s concerns about social media determining what is said, based on the response of thousands or millions of watching strangers.

Westbrook also said that she thought her disclosures to be in the public interest, explaining why she chose to voice her concerns on her YouTube channel, rather than privately with Charles directly. These reasons included that she had already made various unsuccessful attempts to communicate with Charles directly. Furthermore, Westbrook had broader concerns that seem consistent with Jonathan Haidt’s views on social media generally. She was concerned about the

harm that Charles' alleged conduct was causing to his fan base of millions of children viewers and social media followers. Another of Westbrook's concerns seemed to mirror the ethical challenges faced by traditional whistleblowers, and this was that if she did not speak publicly "... no-one is really stopping him, no-one is going to get through to him ... this is going to end badly ... then I will have to sit for the rest of my life and feel like I never said anything ..."

Perhaps this YouTube saga is just a form of social media "cancel culture" as Westbrook said that Charles is an adult who needed to be made accountable and "... people need to be called out for their actions, and someone has got to do it..."? But I suggest this is different because Westbrook also said in her videos that she hoped her disclosures would inspire parents to talk to their children about them. Westbrook hit her whistleblowing ball to a different regulator — *parents*.



Conclusion: is YouTube whistleblowing safer?

Westbrook seems to have survived this YouTube saga as at the time of writing (July 2019) she has gained millions of new YouTube subscribers, taken both of her "whistleblower" style videos down, made no further public comments on it, and continues to post regular highly watched YouTube beauty videos. Westbrook's vitamin business apparently soars.

Westbrook's YouTube public disclosures were perhaps successful, for her, because unlike traditional organisational whistleblowing, she went directly to the public immediately and not to a regulator, law enforcement agency or "whistleblower officer." Westbrook also did not depend on Charles' support for her reputation or survival, so did not need him to change even if she preferred that he did. Unlike traditional accounts of whistleblowers being isolated, marginalised, undermined as

mentally unfit and then rejected, Westbrook's autonomy allowed her to take back control by simply ending her relationship with Charles, publicly. Furthermore, unlike traditional whistleblowing scenarios, Westbrook was not and could not be isolated as her YouTube channel shows her receiving loyal support from her husband, family, friends and public celebrities,

Westbrook also did not seem to define or identify herself as a whistleblower *per se*. Once she made her public disclosures, she simply let her public audience (rescuer-bystanders) respond to them as they chose. She otherwise seemed to leave it at that. Westbrook seemed to avoid trite characterisations of traditional whistleblowers as narcissistic recklessly selfish anarchist loners. Perhaps it was also the fact Westbrook already had millions of supportive public subscriber viewers, or that the tone and style of her YouTube disclosures were congenial, personal and conversational, not accusatory and formal. She presented herself as simply speaking up about alleged unethical conduct by someone she saw as a friend who was also her professional protégé in the YouTube beauty industry. Westbrook's arguable whistleblowing success was perhaps also because she was not inside a formal organisation, that some notions of whistleblowing see as an essential feature. Consequently, Westbrook did not (and perhaps did not need to) submit to the usual *narcissistic control* of whistleblowers exerted by governments, organisations, companies or institutions. That is, unlike traditional whistleblowers, Westbrook disrupted and thereby escaped the narcissism triangle which usually causes the need for whistleblowing in the first place.

Public disclosures by one YouTube beauty vlogger on another might be dismissed as just one narcissistic personality competing against another narcissistic personality, in an era of cultural narcissism. Yet, if we accept whistleblowing as any ethical act of dissenting truth telling by a victim or rescuer bystander, about a predatory aggressor, then whistleblowing is not narcissism but its antidote. Whistleblowing can then be recognised as a normal daily act of ethical human courage, in any narcissistic drama triangle afflicting families-parents,

marriages and friendships to workplaces, professions, institutions, organisations, nation states or global companies.

If this 2019 YouTube saga reflects a trend, it might be that our era of narcissism (even on social media) is starting to implode on itself — under whistleblowing as the new normal.

Magdalene D'Silva, BA/LLB, LLM, MA, admitted as a solicitor (currently non-practising) of the supreme courts of Tasmania, NSW, England & Wales, and the High Court of Australia.

BOOK REVIEW

The asshole survival guide

Brian Martin

IS THERE SOMEONE at your workplace who is obnoxious? Someone who is rude, contemptuous, continually belittling others, inconsiderate, foul mouthed? Someone others seek to avoid?

If so, what should you do? Try to get along? Get away? Fight back? Quit?

The question is more acute if there are lots of these obnoxious workers, and if one of them is your boss.

Robert I. Sutton is a management researcher at Stanford University. Normally he writes about building better workplaces. Then he wrote an article about "assholes" — the US spelling of "arseholes" — and, because it was so popular, a book titled *The No Asshole Rule*. Sutton argued that workplaces would become much more productive, as well as more satisfying, by curbing bad behaviour. This could be done by not hiring arseholes, not tolerating them and, if necessary, getting rid of them.



Robert I. Sutton

The No Asshole Rule turned out to be Sutton's most popular book, by far. As a result, he received 8000 emails from readers, many of them providing further stories about assholes in the workplace. There was also a common refrain: correspondents wanted to know what to do about the co-workers who were causing them so much grief.

So Sutton decided to write another book about assholes, this one called *The Asshole Survival Guide*. It provides advice about what to do. The book has lots of stories of toxic behaviour and ways people dealt with it. The stories make for entertaining reading as well as making the lessons much more digestible.

The issue is important. Sutton writes, "The list of damages done by workplace assholes goes on and on: reduced trust, motivation, innovation, and less willingness to make suggestions; increased waste, theft, absenteeism, and surliness."



There are many varieties of assholes. To be fair, we shouldn't refer to someone as an asshole: they are simply behaving in a bad way. Maybe they aren't like this all the time. Because nearly everyone behaves inappropriately some of the time, it's not just a question of pointing the finger at a few bad apples. We need to be aware of our own bad behaviour.

Sutton says the first task is to identify bad behaviour and decide whether it's someone's regular way of interacting or, instead, just an outburst due to having an off day. You also need to decide how serious the problem is.

If there is an asshole at your workplace, causing you grief, what are the options? One possibility is to leave: quit the job or get an internal transfer. However, some people are unable to leave for financial or other reasons.

A less drastic option is to reduce your exposure to the asshole. You might respond to emails less promptly, try to be inconspicuous at meetings, or find a thick-skinned co-worker to be a buffer. Some middle managers see it as their role to protect their subordinates from abuse from the CEO: these managers take the flak and reduce the wider damage.

Another option is to change the way you respond mentally to toxic behaviours. You might imagine that the boss's words of abuse are part of a song, or marvel at the imaginative put-downs, or count the number of minutes and measure the volume of a tirade. The idea here is to learn to respond in a different way, so you feel less upset. It's also important not to dwell on incidents, going over and over them in your mind. The asshole probably has forgotten all about what happened; you should be able to do the same.

Then there is the option of fighting back. There are various ways to do this. One is to return fire, responding to abusive comments with your own abusive comments. Sutton warns that this is very risky, because then you might be seen as the asshole.

Another method of fighting back is to use humour to deflate nasty comments. You might also make a complaint after collecting plenty of information. This is not a reliable method, because the asshole might have allies, and the whole workplace might be infected with asshole behaviour. As Sutton notes, assholes breed more assholes. You are at risk of becoming infected.

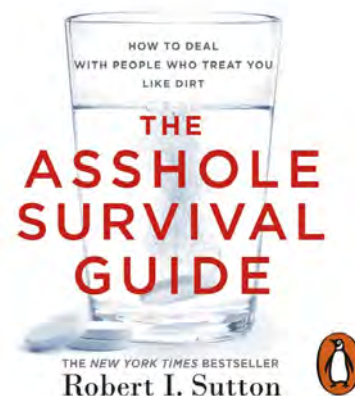
This is a brief overview of some of the ideas in *The Asshole Survival Guide*. There are lots of complications. If you have a problem at your workplace, it's worth reading the book to get ideas, learning from what others have said and from what researchers have discovered. Yes, there are researchers studying civility in workplaces.

There is a partial overlap between the hostile treatment of whistleblowers and dealing with assholes. These are not identical problems. Many whistle-

blowers are subject to bullying, ostracism and various types of reprisals. These might be considered asshole behaviours. On the other hand, people called workplace assholes — the repeat offenders — can make life a misery for anyone affected, not just whistleblowers.

Sutton says rules and laws aren't all that useful. In a list of resistance techniques that he says are likely to fail or backfire, #7 is "Ask crooked people and systems for help."

Beware of people in HR, legal, senior management, or law enforcement with big incentives to protect the assholes in power and none to fight for you. Gretchen Carlson at Fox News provides a cautionary tale. *New York* magazine reported in September 2016 that when she complained to her supervisor about condescending cohost Steve Doocy, Chairman Roger Ailes got wind of it and told Carlson that she was "a man hater" and a "killer" who "needed to get along with the boys."



If you're thinking of speaking out in the public interest, you are at risk of being treated badly at work. This means you can learn from *The Asshole Survival Guide* how to assess the behaviours of your co-workers, consider options and prepare for reprisals. Not surprisingly, many of the techniques described by Sutton — leaving, avoidance, mental skills and fighting back — can be quite useful to whistleblowers.

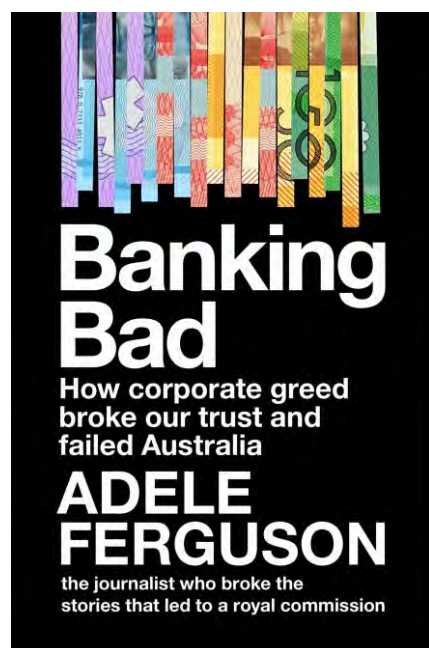
Brian Martin is editor of *The Whistle*.

“This government doesn’t want whistleblowers”: Jeff Morris gives scathing review of protection laws

Sarah Keoghan
Sydney Morning Herald
8 August 2019

THE MAN who exposed misconduct rife in Commonwealth Bank’s financial planning arm has given a scathing review of current whistleblower protection laws, accusing the federal government of “deliberately” choosing not to act on the issue out of fear of embarrassment.

Jeff Morris, who emerged as a whistleblower in 2008, made the comments during the launch of *Sydney Morning Herald* and *The Age* journalist Adele Ferguson’s book, *Banking Bad*, and called on the federal government to form a whistleblower protection agency and compensation scheme.



“We have a government that is now actively persecuting public sector whistleblowers as never before, threatening them with up to 160 years of imprisonment.

“We have a government that is also attempting to shut down free press by sending in teams of goons with sledgehammers to seize boxes of files,” he

said. “What that says to me is that this government doesn’t want whistleblowers coming forward.”

“It doesn’t want public sector whistleblowers coming forward and embarrassing them and it doesn’t want private sector whistleblowers coming forward and embarrassing their friends in the corporate sector.”

Changes to the laws would be timely due to a changed public opinion of institutions following the banking royal commission, he said.

“The financial services sector, I don’t think, is the only sector people have lost confidence in today,” he said. “I would go so far to say there is a general and complete loss of confidence in all of our institutions, public and private.”

The Attorney-General Christian Porter said he had “recently indicated” an intent to make changes to the Public Interest Disclosure (PID) Act and was considering options for reform “towards the end of this year.”

Mr Morris said financial compensation was an essential consideration for lawmakers and cited how whistleblowers often lose their families and are impacted physiologically as a result of speaking up.

“Five years ago I was asked to address the annual conference of a group called Whistleblowers Australia ... what I found at that conference was quite disturbing ... it was a lot of broken people who tried to do the right thing,” he said. “People cheer whistleblowers but they don’t employ them.”

Ms Ferguson, whose articles on Morris’ leaks led to the banking royal commission, also called on the federal government to act [...].

“Evil can only prosper when good people fail to act which is why we need to improve our whistleblower laws,” she said.



“Australia is getting it wrong”

Emma Koehn
Sydney Morning Herald
8 September 2019

CO-FOUNDER of whistleblower app Whispli says cases like that of ATO whistleblower Richard Boyle, who is facing 161 years in jail for blowing the lid on abuses by the tax office, will have a long-term impact on people’s willingness to come forward with information.

“If someone’s going to spend 100 years behind bars, nobody is going to be willing to come up and speak out,” Sylvain Mansotte said.

Mr Mansotte knows first hand the “terrifying” experience of being a whistleblower, and as he works to empower employees he says Australia must change its mindset on workers who speak out.

“At this point in time, Australia is getting it wrong and they should lead by example, they should actually value whistleblowers for who they are and what they are trying to do for society and not try to damage them — because then nobody else can speak out,” he said.

Mr Mansotte relocated to Boston to grow the secure communication startup into the US market. The French-Australian entrepreneur founded Whispli, previously called Fraudsec, in 2015 with co-founders Sacha Schmitz and Matthew Browne.

It was shaped by his own experiences uncovering a \$20.7 million fraud while working at construction firm Leighton Contractors in 2012.

“That was a terrifying event, and from that experience I actually became a kind of risk manager or investigator, and that’s when I realised I was not the only one [who was] not comfortable to speak up using a hotline,” he said.

Whispli has amassed a global user base of government agencies and businesses who subscribe to its platform so that employees can anonymously report information about poor behaviour. The Australian Competition and Consumer Commission, Qantas and Save the Children are among the local companies to have signed up to the platform.



Sylvain Mansotte

Whispli allows users to upload files and information via an encrypted service enabling companies to communicate with whistleblowers while maintaining their anonymity.

The company has expanded at the right time: a combination of new whistleblower legislation in a number of countries and the rise of the #MeToo movement in the US means companies are more hungry than ever for tools to help their employees raise issues, Mr Mansotte said.

Speaking from his US office, Mr Mansotte said that despite Australia's positive move to implement broader protections for whistleblowers, the country needs to do much more to ensure citizens feel empowered to speak out.

"If you can take the fear away from people, then they will start to speak out."

The tax community is currently weighing in on whistleblower protections through submissions to a Senate review on the performance of the Inspector-General of Taxation.

Tax ombudsman Karen Payne wrote in a submission that enshrined protections of privacy and confidentiality were vitally important for employees and businesses when they considered whether to come forward with voluntary disclosures and that her office should have clearer powers to protect staff if they came forward.

Whispli, which turns over less than \$10 million, secured a \$2.8 million seed round last year with investment from eBay founder Pierre Omidyar, as well as backing from Blackbird and AirTree Ventures.

The startup now has offices in Sydney, Boston, Paris and London. In the US market, the business has positioned itself as an "antidote" to employee review site Glassdoor, Mr Mansotte said.

In a post-Me Too climate, human resources departments want platforms

that employees can use to report problem behaviours internally, rather than discovering these via reports on third party sites. Whispli is also further developing options for citizens to securely communicate with journalists.

Mr Mansotte believes startups like his are one of the most important factors in ensuring employees speak up, regardless of what protections are in place for whistleblowers.

"If you don't have the right mechanisms to speak out, it's kind of pointless," he said.

The silenced

Oliver Milman

The Guardian, 17 September 2019

From weakening vehicle emissions to blocking warnings about how coastal parks could flood or the impact on the Arctic, the Trump administration is accused of muzzling climate science. Here six whistleblowers and former government scientists describe being sidelined by the administration — and why they won't be quiet.

[Only the case of Maria Caffrey is given here.]



Role: *Worked on climate change at the National Park Service (NPS)*

What did the work involve?

"I was studying how climate change will affect 118 coastal parks in the US for the National Park Service. I started this work in July 2013, it was my baby."

What changed under the Trump administration?

"My study went through peer review and was ready to be released but I was told by the NPS a few days after Donald

Trump's inauguration that they were 'waiting for messaging' first. I thought that was no big deal but then nothing happened and I started calling up every few weeks to say, 'We've got to get this out, it's getting stale.'

"The excuses varied but became ever more vague, such as 'we are ever so busy' or that it would worry people during hurricane season because it mentions storm surge in coastal areas. A superior said they wanted to keep a low profile on climate change for four or maybe eight years while Trump was around, which really upset me because we don't have four to eight years to do nothing. I felt I was being silenced.

"I went on maternity leave around Christmas 2017 and the report still hadn't been released. I got an email from a colleague saying, 'Congrats on the baby, by the way you should know they are editing your report.'

"We had a conference call and it became clear that any mention of human-caused climate change had been taken out. I was asked how I would feel if they didn't release the report at all, which felt like a threat. I stood my ground and was told 'they aren't going to be happy about this from above.' It was never clear who 'they' were — perhaps Trump himself or Ryan Zinke [the then secretary of the interior].

"I then had a meeting with a senior NPS official who came out from Washington DC. The other report co-authors were there, too. That's when it all unravelled, it became incredibly hostile. I was told not to attribute changes in public lands to human actions.

"I felt like we worked for the American people and I didn't want to lie to them. But a superior said that we in fact work for the executive branch of which the president is the head. The president is the boss and we are going to put our heads down and put out the line of the administration.

"A journalist did a freedom of information request and saw all the emails of us fighting over this and asked me for a statement. I ended up going on the record because I thought it was a very important issue. I was aghast I was being asked to lie. These people were violating the mission of the NPS.

"After I came back from maternity leave I was demoted to be an intern on \$25,000 a year. And then in February

this year they said there was no money left at all and that I would have to leave. It was devastating. I offered to work for free as a volunteer but was turned down, which shows that it wasn't a money issue really. I packed up my office and I was gone. I filed a whistleblower complaint in July."



How do you feel about your experience?

"I have faced retribution, I was threatened and placed in a hostile work environment. It's clear in some agencies there's a culture of fear where scientists are being intimidated. When I wrote this report, politics was the last thing on my mind, I was thinking about climate change and these coastal parks.

"It's very frustrating, it's not where I pictured where my career would be at this time in my life. I don't even know if I have a career any more. What's left is in tatters."

The National Park Service did not respond to the *Guardian's* request for comment.

Confession of a government whistleblower

Dawn Westmoreland
The Good Men Project
31 August 2019

I NEVER DREAMED of being a whistleblower, who is someone that exposes unethical, illegal or prohibited personnel practices of a company or government agency. I am a relatively quiet person. I hate drama, but I dislike people being abused by others. In my case, I reported the second-largest

federal agency for perceived nepotism and training only certain people to groom them for promotion, which violates the US Merit Systems Protection Board (MSPB) prohibited personnel practices.

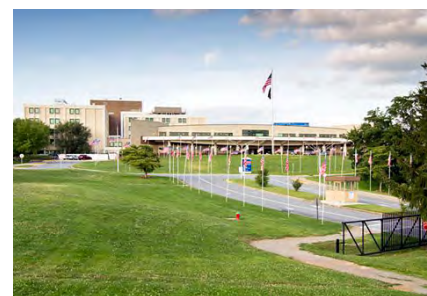
My first week in my new job, I could not believe that there were only around five black employees out of about 500 in my Veterans Affairs agency in Asheville, North Carolina. One of the black employees worked in my department and we would later become very close friends. Ironically, we were both armed with knowledge and experience to know that our management was hiring family and friends, instead of following the mandated practices of hiring government employees. Both of us would speak up during meetings about perceived nepotism and we quickly made our management very nervous. I had over 22 years of Human Resources experience at the time in 2012 and my friend had an Equal Employment Opportunity (EEO) background.

On my own, I contacted the Office of Special Counsel (OSC) which is where government employees report prohibited personnel practices (PPP) and provided evidence that our management was committing nepotism. An OSC lawyer reached out to me and dismissed the case to my dismay. I felt I had given plenty of evidence. Ironically, I would meet a lawyer who worked in the Food and Drug Administration at a bed and breakfast hotel. I was having coffee in the breakfast room and he and his wife asked if they could join me. Looking around, they could have sat at five other tables, but they chose to join me.

After sharing pleasantries, I shared my work matter with this lawyer and he told me that it seems like OSC only gets involved in cases where there is retaliation for reporting prohibited personnel practices. I don't believe in coincidences, but that all experiences happen for us to grow and learn. I was getting retaliation for reporting my managers. It actually helped me to meet the Equal Employment Opportunity Commission's (EEOC) criteria for disability discrimination and then, later, retaliation for reporting my managers to the EEOC. I felt that meeting that FDA lawyer had given me the insights to seek help through the EEOC, instead of OSC.

At the time, I was refused a Reasonable Accommodation to perform my work duties as a disabled military veteran by my managers. I needed an ergonomic workstation and the two computer monitors were about less than a foot from the edge of my desk. I am five feet ten inches tall and I could not perform my work with the misplaced monitors that were fixed on metal pipes. It created pain in my neck and back because I was working in a very cramped workspace. My management ignored my doctor's letters asking for the monitors to be moved back and to create a safe work environment for me.

I was retaliated against and put on administrative leave for about 100 days with false charges. I would eventually lose my nice home as my paycheck was cut off as I was not allowed to work from home as a Reasonable Accommodation, like some other employees. Most of my doctor's request for a Reasonable Accommodation would be ignored. I was unable to call a loved one and my co-worker without calling and hanging up five times before they could hear me. Ironically that problem went away the day after I settled with Veterans Affairs without a non-disclosure agreement. I would occupy one of the four female veteran beds in the mental health ward at the Charles George VA Hospital because of all the stress, safety issues, and mistreatment.



Charles George Veterans Affairs
Medical Center, Asheville

In the end, I am glad I spoke up for myself and others. I paid a high price, but I would do it again. I transformed from being a victim to helping others who are being mistreated in the workplace. I would get recognition in the *Christian Science Monitor*. I would help another VA whistleblower who gained a lot of attention on TV. I would interview Erin Brockovich on my podcast to let people know simple ways to stand up for yourself. My work

would evolve as new doors opened. The best part of my experience has been empowering others to stand up for themselves and others.

What science tells us about the psychology of whistleblowers

Mark Travers

Forbes, 26 September 2019

EVERY FEW YEARS, the nation's attention is drawn to the revelatory actions of a whistleblower. Most recently, a member of the intelligence community brought forth information suggesting that President Trump withheld hundreds of millions of dollars in military aid to Ukraine, hoping that the Ukrainian government would provide compromising information on Joe Biden and his son, Hunter. Or so the story goes. Before that, it was Edward Snowden, who released classified information pertaining to top-secret NSA surveillance programs. Before that, it was Chelsea Manning, Linda Tripp, Daniel Ellsberg, and so on.

When cases like these arise, the motives of the whistleblowers become the source of endless media speculation. Some believe that their actions are politically motivated. Others contend that there may exist a personal vendetta. Many others believe that they are simply trying to do the right thing.

But what does the research show? Key findings from decades of scientific inquiry examining the psychology of whistleblowing are summarized below.

Key Finding #1: *Whistleblowers are more likely to be male. They tend to have higher levels of education, higher salaries, and more tenure within their organization.*

This insight comes from research conducted by Marcia Miceli and Janet Near, who examined data from individuals who reported wrongdoing in governmental organizations through the U.S. Merit Systems Protection Board. Generally speaking, they found that whistleblowing tended to coincide with higher tenure and rank within an organization.

Key Finding #2: *Whistleblowers tend to be extraverts. They score low on the*

personality dimension of agreeableness and are more likely to have a domineering personality.

Research led by Brita Bjorkelo examined the personality traits of 503 municipal employees. Using a five factor model of personality as a basis for her comparison, she found elevated levels of extraversion and suppressed levels of agreeableness among employees who spoke out against what they perceived to be unethical behavior. Furthermore, when examining personality characteristics that are associated with interpersonal conflict (for example, vindictiveness, neediness, non-assertiveness, etc.), she found that the domineering/controlling dimension of personality was most predictive of whistleblowing behavior.



Key Finding #3: *Whistleblowing is viewed less favorably in “collectivistic” cultures than in “individualistic” cultures.*

According to studies, people from Japan, China, and Taiwan view whistleblowing less favorably than people in the United States. A team of psychologists led by Adam Waytz of Northwestern University states that the difference has to do with “a culture’s degree of collectivism, or the degree to which individuals perceive interdependence with their group, with more collectivist groups expressing more negative feelings toward whistleblowing.”

Key Finding #4: *Whistleblowers are more likely to call out abrupt, unethical behavior than unethical behavior that starts small and increases gradually.*

In behavioral studies where people were asked to report the unethical actions of others, participants were more likely to speak out against unethical acts when the violation was blatant and abrupt instead of slow and gradual. Researchers call this the *slippery-slope effect*. At least part of this appeared to be caused by people simply not noticing the unethical behavior when it occurred gradually.

Key Finding #5: *Whistleblowing represents a trade-off between the competing moral values of fairness and loyalty. Whistleblowers take the side of fairness.*

Behavioral studies that measured people’s endorsement of the values of fairness and loyalty and then asked those same people to consider hypothetical cases where they might have to blow the whistle, results consistently showed that people who valued fairness above loyalty were more likely to report unethical behavior.

Conclusion: Taken together, these findings help us understand the issues at play with respect to whistleblowing behavior. Perhaps the greatest challenge is establishing proper channels through which whistleblowers can safely report what they view to be unethical behavior, regardless of whether they are correct in their assessment. One recent study calculated that over 80% of employees who brought corporate fraud to light felt marginalized in their career as a result of their behavior. Scientific consensus maintains that whistleblowing, though not without its faults, advances the public good and should be legislatively protected to the extent that it can be.



Tweets and free speech

Anthony Forsyth

The Conversation, 7 August 2019

THE ISRAEL FOLAU termination case has dominated headlines for months now.

Many Australians have been intrigued by the extent to which employers like Rugby Australia are able to control the social media activity of their employees — in Folau’s case, a high-profile player who tweeted his condemnation of homosexuals and others. He argues he has been sacked for expressing his religious beliefs.

The High Court has today handed down its decision in another case that raises similar issues around free speech and how much an employer can control what an employee says, or tweets, in their personal time.

In *Comcare v Banerji*, the High Court ruled that the federal government may legitimately restrict the right of public servants to express political views, and that those limitations do not breach the implied freedom of political communication in the Australian Constitution.

The decision confirms the steady march of employer control over workers’ private views and activities, supported by courts and tribunals over many years.

What happened in the Banerji case?

In September 2013, Michaela Banerji’s employment in the then-Department of Immigration and Citizenship was terminated for breach of the Australian Public Service’s code of conduct and social media guidelines.

The code requires employees to uphold APS values “at all times”. The social media guidelines deem it inappropriate for employees to make unofficial public comments that harshly criticise the government, politicians or their policies.

In Banerji’s case, the offending behaviour was her posting of more than 9,000 tweets from the pseudonymous Twitter handle @LaLegale. These tweets criticised the federal government and its immigration policies, the immigration minister, the opposition and the department in which she worked.

Banerji unsuccessfully applied for an injunction to prevent her dismissal. In that case, she argued that the Depart-

ment of Immigration and Citizenship was in breach of the Fair Work Act by taking action against her for exercising her constitutional guarantee of free political communication.



Michaela Banerji

The Federal Circuit Court rejected that submission, finding that the implied freedom of political communication under the constitution has limits. It does not, for example, give an employee licence to breach his or her employment contract.

Contending her dismissal and the events preceding it caused her to suffer from post-traumatic stress disorder, Banerji next filed a claim under the federal public service workers’ compensation scheme (*Comcare*).

When her claim was rejected, she sought a review in the Administrative Appeals Tribunal. The central issue was whether her dismissal was considered a “reasonable administrative action taken in a reasonable manner”, as this could not form the basis for a compensable injury.

Banerji claimed her dismissal should be considered unreasonable since it was carried out in breach of the implied constitutional freedom of political communication.

The AAT found in Banerji’s favour, ruling the APS code of conduct impedes free communication about government or political matters.

The tribunal acknowledged the APS code requires employees to uphold the reputation and values of the APS “at all times” – even outside of work. And it found that those restrictions could be seen as legitimate to ensure the public service remains an apolitical body.

But the tribunal ruled that the department went too far in applying such restrictions to Banerji, given she had tweeted anonymously and therefore could not be identified as a public servant.

In the tribunal’s view, “restrictions in such circumstances bear a disconcerting resemblance to George Orwell’s thoughtcrime.”



The High Court’s decision

The High Court unanimously decided in favour of *Comcare* and set aside the decision of the appeals tribunal.

The majority judges on the court agreed that the tribunal had incorrectly approached the matter as a question of whether Banerji’s personal freedom of political communication had been intruded upon. These four judges stated that the constitutional freedom of political communication “is not a personal right of free speech.”

Rather, it protects “political communication as a whole.” Thus, the court ruled, the question is not whether the code of conduct unduly infringed on Banerji’s personal right to freedom of expression, but whether “political communication as a whole” was adversely impacted. The court also had to decide whether these restrictions on political discourse were enacted for a legitimate purpose.

In its ruling, the court found the limitations were needed to ensure the provision of independent, impartial advice to government through “an apolitical and professional public service.”

In reaching this view, the majority judges rejected Banerji’s argument that applying these limitations to anonymous comments went too far. The court stated that even anonymous comments could damage the integrity and reputation of the public service. It further found that anonymous comments are at risk of ceasing to be anonymous if the person’s identity is somehow revealed.

The other three High Court judges essentially agreed with the analysis of

the majority. Two of them added the observation that the restrictions on free speech only apply while a person chooses to remain an APS employee.



What are the implications of the decision?

Justice James Edelman wrote in the decision:

The code that now regulates their behaviour no longer turns public servants into lonely ghosts ... But, properly interpreted, it still casts a powerful chill over political communication.

The Community and Public Sector Union also took a dim view of the ruling, saying it will impact some 2 million public service employees across Australia.

People working in Commonwealth agencies should be allowed normal rights as citizens rather than facing Orwellian censorship because of where they work.

With the ruling in the Banerji case, only academics with protections of intellectual freedom (under university enterprise agreements) now have the clear right to publicly express political views that their employer may not care for.

Employees in much of the private sector have their political views restricted by company codes and policies that require them not to damage the reputation of the business. These employees cannot invoke the implied freedom of political communication to support their right to speak out.

What remains untested, though, is whether corporate employees can contest dismissal for expressing political views under section 351 of the Fair Work Act, which prohibits termination on the basis of an employee's political opinion.

And back to the Folau case? The Banerji decision does not have direct implications, as Folau is putting forth a different argument about the right to

express religious views under anti-discrimination laws.

But I think the decision in the Banerji case shows the High Court is leaning strongly in favour of employer rights of control over employee speech. It would be odd if the High Court took a different view about Rugby Australia's right to shut down Folau's views.

Anthony Forsyth is Professor of Workplace Law, RMIT University.

Get Reel: Whistleblowers are the heroes of these 19 movies

Bob Tremblay
Several US newspapers
8 September 2019

WHISTLEBLOWERS are typically spurred into action when they see a wrong and want it righted. Or they see a wrong and want to profit from revealing it. Or they think they see a wrong that isn't really a wrong and end up blowing their whistle in a padded cell.

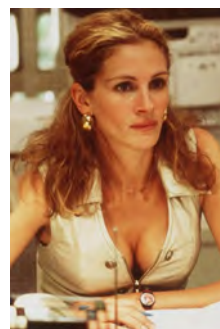
But let's assume the whistleblower isn't crazy, though he or she may be alone in that assessment. That's because doing the right thing often results in the whistleblower being wronged, or not receiving the hero treatment he or she deserves. Aware that whistleblowing could be hazardous to their health or career, some prefer to remain anonymous, serving as a conduit of information and letting others do the whistleblowing for them.

In many cases, at least the ones that Hollywood has turned into films, the people who become whistleblowers end up running against the wind, and Hollywood loves making movies where the underdogs suffer for what they believe in, going against all odds, waging a David and Goliath struggle until they emerge victorious ... or really unhappy. Or both.

Listed below in alphabetical order are 19 feature films about whistleblowers based on or inspired by true stories. Are there more than 19? Sure, but that's all we have room for, and most of these are really worth watching. And I'm not just whistleblowing Dixie.

"ALL THE PRESIDENT'S MEN" (1976)

The film focuses on the Watergate scandal that would eventually lead to the resignation of President Richard Nixon. *Washington Post* reporters Carl Bernstein and Bob Woodward, played by Dustin Hoffman and Robert Redford, respectively, receive invaluable information during their investigation from a mysterious whistleblower whom they dub "Deep Throat." Years later, the whistleblower revealed himself as FBI agent Mark Felt, who became the subject of a film himself, 2017's "Mark Felt: The Man Who Brought Down the White House," starring Liam Neeson in the title role. "All the President's Men" won four Oscars, including best supporting actor (Jason Robards) and best screenplay (William Goldman).



Julia Roberts as Erin Brockovich

"ERIN BROCKOVICH" (2000)

Julia Roberts won the best actress Oscar for her portrayal of Brockovich, a lawyer who brings a class action suit against a large utility, alleging that it has contaminated the soil and that this contamination is leading to an inordinately high amount of cancer cases in a small town. To win the case, Brockovich relies on people in this town to do the right thing even if some work for the utility. Talk about biting the hand the feeds you, even if the food is poisoned.



Erin Brockovich

“FAIR GAME” (2010)

The film tells the story of Valerie Plame and Joseph C. Wilson, a married couple whose lives get discombobulated when Wilson, working as a diplomat, pens an article in *The New York Times* refuting the Bush administration’s claim that Iraq is using yellowcake uranium to build weapons of mass destruction. Apparently, the administration didn’t appreciate the article and Plame’s cover as a CIA agent gets blown as retaliation. Plame loses her job, her marriage crumbles and it looks like the administration is going to have its yellowcake and eat it, too. Will the two reconcile and do battle against the powerful White House? I’ll never tell. Naomi Watts and Sean Penn star.

“THE FIFTH ESTATE” (2013)

The film details the relationship of Daniel Domscheit-Berg and Wikileaks founder Julian Assange, whose website reveals several wrongdoings. But problems arise when subsequent revelations seem to be doing more harm than good. Domscheit-Berg eventually breaks with Assange, who eventually ends up in prison. In the film, Benedict Cumberbatch plays Assange and Daniel Bruhl plays Domscheit-Berg. Sometimes, whistleblowers can become their own worst enemy.

“GOODFELLAS” (1990) and “THE VALACHI PAPERS” (1972)

It’s typically not a good idea if you value breathing to be an informant against the mob. But that’s just what Henry Hill and Joe Valachi did without ending up as fish fodder. “GoodFellas” is rightly considered one of the greatest gangster movies in the biz. It was nominated for a slew of Oscars, including best picture, and won the best supporting actor Oscar for Joe Pesci. Ray Liotta plays Hill. “The Valachi Papers” clearly suffers by comparison, and coming out in the same year as “The Godfather” probably didn’t help either. Charles Bronson plays Valachi.

“THE INFORMANT!” (2009)

This film depicts the whistleblowing exploits of Mark Whitacre, an executive at Archer Daniels Midland who blows the whistle on his company’s involvement in a price-fixing conspiracy. Whitacre, however, has some serious mental issues, which the whis-

tleblowing only exacerbates. Let’s just say that Whitacre does more than inform. Matt Damon plays Whitacre.



Russell Crowe as Jeffrey Wigand

“THE INSIDER” (1999)

A fictionalized account of a true story, this film focuses on the “60 Minutes” segment about Jeffrey Wigand, a whistleblower in the tobacco industry, and covers his struggles as well as those of producer Lowell Bergman as they defend Wigand’s testimony against industry efforts to discredit it and CBS’ efforts to suppress the story. It’s not a pretty picture. Al Pacino plays Bergman and Russell Crowe plays Wigand.



Jeffrey Wigand

“NORMA RAE” (1979) and “NORTH COUNTRY” (2005)

Both films chronicle the efforts of women who face considerable obstacles and hardships to improve their working conditions, one at a textile factory, the other at an iron mine. Sally Field won the best actress Oscar for her portrayal of Norma Rae Wilson, aka Crystal Lee Sutton. Charlize Theron was nominated for a best actress Oscar for her portrayal of Josey Aimes, aka Lois Jensen. For you trivia mavens out

there, “North Country” is a fictionalized account of the first major successful sexual harassment case in the United States.

“OFFICIAL SECRETS” (2019)

In this film, British whistleblower Katherine Gun, played by Keira Knightley, leaks a secret memo exposing an illegal spying operation by the US government, looking for information with which to blackmail UN diplomats tasked to vote on a resolution regarding the 2003 invasion of Iraq. Gun’s superiors and the British government don’t approve of her actions. Anyone who thought the Iraq War was an outrage will likely be outraged further.

“ON THE WATERFRONT” (1954)

This is quite simply one of the greatest films ever made. Marlon Brando won a best actor Oscar for his powerhouse portrayal of Terry Malloy, a once promising boxer who now works on the docks for a very corrupt union boss. Will Terry do the right thing and blow the whistle on the union boss? Complicating this decision is the fact that that his brother is the union boss’ right-hand man. The movie also won Oscars for best picture, best supporting actress (Eva Marie Saint, in her film debut), best screenplay (Budd Schulberg) and best director (Elia Kazan).

“THE POST” (2017)

Daniel Ellsberg, one of this country’s more famous whistleblowers — or infamous, depending on your political bent — released documents, known as the Pentagon Papers, showing that the war in Vietnam wasn’t exactly going smoothly for the United States. The White House didn’t appreciate these revelations and wasn’t too keen on seeing them published in the *Washington Post*, a paper now being run by Katharine Graham, the first female publisher of a major American newspaper. Graham faces a difficult decision on whether to publish the papers. You’ll never guess what she does. Meryl Streep was nominated for a best actress Oscar for her portrayal of Graham. The film was also nominated for a best picture Oscar. Matthew Rhys plays Ellsberg, who would also be the subject of “The Pentagon Papers” (2003), where James Spader portrays Ellsberg, and “The Most Dangerous

Man in America: Daniel Ellsberg and the Pentagon Papers” (2009), a documentary.

“SERPICO” (1973) and “PRINCE OF THE CITY” (1980)

Both movies focus on police officers who expose police corruption and pay the price as their actions don’t endear themselves to their fellow men in blue. Being an informant in the company of people with guns can get dicey. Trust becomes tricky, too. For playing New York City cop Frank Serpico, Al Pacino was nominated for a best actor Oscar. In “Prince of the City,” Treat Williams plays New York City narcotics detective Danny Ciello, aka Robert Leuci.

“SNOWDEN” (2016) and “CITIZENFOUR” (2014)

Both films tell the tale of Edward Snowden, a disillusioned U.S. government official who releases classified information on illegal surveillance conducted by the National Security Agency. For some reason, the US government becomes irritated by Snowden’s disclosure and he becomes a high-profile persona non grata. A White House invitation is not likely in his future. In the film, Joseph Gordon-Levitt plays Snowden. If you have you choose between the two, watch the Oscar-winning documentary. Its title refers to Snowden’s “secret name.”

“SPOTLIGHT” (2015)

Based on the Pulitzer Prize-winning series of stories penned by the Boston Globe’s Spotlight team — hence the film’s title — the movie uncovers cases of widespread and systemic child sex abuse in the Boston area by several Roman Catholic priests, with the church hierarchy complicit in the abuse by covering it up as best they can. The reporters face a daunting task of getting victims to tell their painful stories and then corroborating them. For some reason, the church doesn’t want to cooperate. The film won the best picture Oscar and best screenplay Oscar for Josh Singer and Tom McCarthy. If you wonder why a free press is important, here’s Exhibit “A.”



Rachel Weisz as Kathryn Bolkovac

“THE WHISTLEBLOWER” (2010)

Truth in advertising here. The film is inspired by the story of Kathryn Bolkovac, a Nebraska police officer recruited as a United Nations peacekeeper for DynCorp International in post-war Bosnia and Herzegovina in 1999. While there, she discovers a sex trafficking ring operated by DynCorp employees. When Bolkovac attempts to expose the ring, she’s fired. Can’t imagine why. She then takes her story to the BBC and files a wrongful-dismissal lawsuit against DynCorp. In the film, Rachel Weisz plays Bolkovac.



Kathryn Bolkovac

“I never set out to be a whistleblower”: Katharine Gun tells the true story of “Official Secrets”

Andrew O’Hehir talks to Katharine Gun

Salon.com, 24 August 2019

Joining me today is former British intelligence officer Katharine Gun, who is the central subject of the new film “Official Secrets.” It’s not a documentary — it’s about what you actually did and what happened to you. Tell us what you can about your intelligence work.

Yes. I worked for GCHQ, which stands for Government Communications Headquarters, and is the equivalent of the NSA here in the U.S. I was a Mandarin-language linguist and translator.

GCHQ is a very familiar acronym to the British public — as you say, similar to the NSA. I know there are certain specifics about your work you can’t discuss, but tell us what GCHQ does. Like the NSA, it selectively intercepts communications that occur between Britain and other places. Is that roughly correct?



Right. It’s signals intelligence. So it gathers any form of communication that is not human intelligence, which is the province of, you know, the CIA or, in Britain, MI6.

So your work was totally invisible to the general public — until 2003, just before the Iraq war. That was when you came across some unexpected information about how the United States and Britain were preparing to go to war.

Right. This was literally right before Colin Powell’s speech at the UN [alleging that Saddam Hussein had weapons of mass destruction]. I got an email on the 31st of January, it was a Friday. The email was basically forwarded down to a whole group of analysts, and that was

approximately 100 people or so, and I happened to be one of them. So it was an email from a guy called Frank Koza, he was the head of regional targets at NSA. It was basically a request from the NSA to GCHQ, it just said, "We want all the information you can gather on the personal or the domestic or office communications of the six delegates that were sitting on the UN Security Council, the swing nations."

These were the nations that move around, the non-permanent members of the UN Security Council. They had the balance of the vote, at this moment when the U.S. and the U.K. wanted this UN resolution which would authorize an invasion of Iraq. So the request was that before this resolution took place, they wanted to have information on these diplomats so that they could twist their arms.



Katherine Gun

They wanted any information on these diplomats, and it said specifically, this is a quote, "the whole gamut of information that would give U.S. policymakers an edge in achieving goals favorable to the U.S." So I was just stunned by this, you know? I was appalled and I was shocked.

This has been presented as an attempt, or at least the solicitation of an attempt, to blackmail these people with whatever embarrassing information could be found. Is that how you read it at the time?

Absolutely, yes. It was either blackmailing them, or bribing them, or threatening them. You know, not just them, but their countries. You know, it was really immoral, unethical behavior.

So the information desired might have been almost anything, right? A personal financial situation, an extra-

marital affair, a substance abuse problem, whatever.

Right. Yeah, yeah. Exactly.

So you come into possession of this, along with roughly 100 other people at GCHQ. In the movie "Official Secrets," the character called Katharine Gun, who is played by Keira Knightley, actually discusses this memo with colleagues at GCHQ. Did that actually happen?

Yeah, that's an interesting point. A lot of this whole story is very internal, OK? Because it's just about me and my internal monologue and my thought processes. But how do you portray that in a film? So, actually no, I didn't discuss it with anybody at work. In fact, we rarely discussed anything of any political interest.

I can imagine that's probably discouraged.

Yeah, it doesn't happen, and it's kind of the usual office environment of gossip and intrigue. Unless you're focused on a very specific target, maybe in your section, then you might be talking about those particular characters and so on. But the general news that's going on at the time, we didn't really focus on it. So the whole thing was going on in my head.

Just to remind people of that political context, which is clear in the film: George W. Bush, with the loyal and devoted assistance of Tony Blair, who was prime minister at the time, was about to go to war with Iraq on the pretext that Saddam Hussein had weapons of mass destruction. We know how that all turned out.



Blair as Bush's puppet

Well, the thing is, as Gavin Hood, the director of the film has pointed out, there are two normal routine ways to launch a war. The first one is to get UN cover, and the second one is in self-defense. So they were desperate, and especially Tony Blair was desperate to

get UN cover. I think that was his main kind of bargaining chip with George Bush, that we have to get this UN cover for his own legitimacy.

Because that made him look less like a lapdog of the United States, perhaps?

Well, yeah. And also, himself being a lawyer. So anyway, leaking the memo essentially blew that up in their faces. That wasn't my intention. My intention was to prevent the war. But anyway, we'll get to that.

So, all right. You have this memo in your possession. What did you do with it?

I really felt that time was absolutely pressing, that there was no time to take it up to any of my superiors. Anyway, I felt they would just sweep it under the rug and would just keep an extra-special eye on me, it would be like flagging me as someone to keep an eye on. So I felt I had to get it out to the public.

I didn't do anything on Friday, I went home and I thought about it over the weekend. I contacted someone I knew who had this contact in the antiwar movement, and I said, "I've got something which I think is explosive, you know, will you help me get it out?" She or he said, yes, they would take it and would post it to this antiwar activist, who happened to be Yvonne Ridley.

Yes. Very well-known British activist and journalist.

Right. So that's what I did. So on Monday I went back into the office, and I printed off a copy of the memo. You know, immediately I felt like I basically had a target on my back. I folded it up and put it in my handbag, just as Keira Knightley does, and then I walked out of GCHQ with it in my bag.

They didn't have any security measures that would notice that you had printed this out, or perhaps send up a red flag?

Well, I mean, people print things out all the time. I don't know what happens now in the digital age, but back then it was quite normal to print things out and send them as a document to other people. So, that was not an immediate concern or risk type of thing. I don't know how often they scrutinize people's bags when they're going in and out of work, but still, you know, I was extremely nervous.

Yeah, I'm sure. Did you, as depicted in the film, physically pass a piece of paper to someone? Is that how this worked?

What actually happened was I mailed it. It went in the snail mail and they got it in a couple of days.

Which is still one of the best ways to avoid detection. Correct?

Well, in theory. Yeah.

But it was some time before all this came out in the press, right? Because that was when this all broke out into the open.

Well, it didn't actually come out in the press until, I think, the 2nd of March, so almost a whole month passed. I went on the antiwar protest in London on February the 15th, and by that point I'd kind of given up hope. I was thinking that maybe it wasn't going to come out, maybe it wasn't really as relevant as I thought it was. Anyway, I was so bowled over by the protest, that I thought, "Surely this is sending the message to Tony Blair that we do not want to go to war." It was such a spine-tingling historical moment. But despite all that, they went to war.



Keira Knightley as Katherine Gun

Yeah, millions of people marched around the world, including hundreds of thousands in the United States. And none of that prevented it.

Absolutely not. So then the story finally appears in the *Observer*, which is a Sunday newspaper. It's a paper that I used to buy regularly. So I went down to the shop, and I went to pick up a copy of it, and instantly, you know, is right there on the front page, "US Dirty Tricks." I mean, I recognized it straight away. The memo itself was replicated on the front covers, and I knew the game was up. I felt like I'd been identified just in that front page.

I guess, naively, I'd hoped or assumed that they would have printed an article that maybe talked about a source, right? "An intelligence source alleges that this is taking place." But I can see why they didn't do that.



Right, they wanted to establish credibility.

And they wanted the impact of the story. Right? It definitely did create an impact, especially in countries like Chile and Mexico [then on the Security Council], countries that would've directly been targeted from the memo.

But nevertheless, when I saw the memo, I was utterly, utterly distraught. I was totally terrified. So that led to a whole sort of — the consequences of my action became apparent. I realized that I wasn't going to be able to remain silent, although I had promised the contact that I had passed the memo to that I would say nothing, I would do nothing, I would remain silent on the issue. I realized I couldn't do that, because I couldn't keep going to work pretending that I had nothing to do with it.

Yeah, this is interesting. You clearly made a very different decision from Edward Snowden, for instance. You didn't make a break for it and then show up somewhere else. Was that an option you considered?

Well, no. It had never occurred to me. I couldn't have run away, because my husband wouldn't have been able to come with me, and that's a whole other story. So no, I just thought I had to take the rap for it, and eventually I did. But initially, I denied having any involvement in it, and then I realized that wasn't a tangible route to go down, and I wasn't going to be able to sustain that. So the following day I went back into the office and I told my manager that it had been me, in fact.

Was that because they were going to conduct a mole hunt, so to speak?

Oh, they did. They started straight away on Monday, and they were interviewing every single person who'd received that email, and grilling them. Then, you know, eventually whittle down to a few that they were extra-suspicious about and then continue to grill them. I mean, the whole thing just seemed like I could not carry on denying my involvement, and also it

was utterly unfair to the other people who would become suspect.

Right. So you copped to it, you told the truth. What happened then? Let's note that the movie is called "Official Secrets," which is a reference to the Official Secrets Act, which is the British law that covers revealing secret government information.

Yes. Which you have to sign to work for GCHQ.

Right. So you had pretty clearly violated that law. Were you arrested? What happened after that?

Well, immediately after that, I was taken to the internal security section of GCHQ where I recounted my actions, but I refused to name the contact that I gave it to. In the meantime, they had called London's Special Branch down to arrest me, and I was taken away in an unmarked car to the local police station where they held me overnight.

Special Branch being a term in Britain that carries a pretty particular and slightly fearsome meaning, right?

Well, yeah. It's a branch of the Metropolitan Police focused on more serious crime, and especially anything to do with these sorts of issues, intelligence issues and so on. Yeah.



So you were charged under the Official Secrets Act, eventually. We won't go into that too much to preserve some of the film's plot points, although your story is obviously public information.

I am always fascinated by this question. You are somebody who spent most of your life, probably before and after this incident of fame, leading a fairly normal existence with no intention of becoming famous. What's it like to see yourself portrayed on film by a famous actress? That must be peculiar.

Of course. Yeah, it's not something I would ever, ever have conceived of, right? First of all, I never set out to be a whistleblower. Secondly, I never expected that my story would be interesting to anybody. Third of all, you know, I was actually terrified of being named, of being identified.

When I was arrested, I wasn't named. Because I hadn't been charged. I wasn't charged until November 2003. So for eight months I was bailed, and month by month I was being bailed, and they didn't name me publicly. I was trying really hard to maintain this kind of life, whereby I was pretending I was on some kind of study course from GCHQ.

Yes. "On leave" or something like that. Obviously they didn't want you going to work.

Right. I had been suspended from work. Then when they did charge me and my name came out, I was just terrified. I was terrified that suddenly I will be known everywhere I went. But in actual fact, nobody knows me, so that's great.



You certainly had a moment in Britain where people read about you. But you didn't exactly become — I'm sure you are somewhat familiar with the case of Valerie Plame, the former CIA officer who became the center of a political controversy. That didn't exactly happen with you, right?

No, I mean, I guess I didn't seek the limelight. Well, at the end of ... I don't want to give the story away totally. But at the end of it all, I just wanted to disappear back into anonymity. So I had a full day of doing press interviews in London and talking, you know, to all the TV personnel, all the famous interviewers. Then I said, "That's it, I'm not doing anymore." I disappeared with my husband down to the coast in Brighton, on the coast of England, and spent some time away from the limelight. Then the story went away, and that's how I wanted it at that time, because I was actually quite traumatized by the whole thing.

It was very difficult for me to come to terms with what had happened. Although it was a tremendous relief that I wasn't going to suffer as much as I thought I was going to have to, there was an anticlimax aspect to the whole issue. Now the great thing about this

film is that hopefully it's going to bring the issues back into the limelight, and that's what I want the film to do.

Andrew O'Hehir is executive editor of Salon.



"Official secrets" movie poster

Whistleblowing humour

Brian Martin

This isn't a media-watch item, but it didn't fit anywhere else.

A RECENT POST by the US National Whistleblowers Center offered this item: "Why did the whistleblower stay inside? He was Snowd'en."

Apparently it is one of the few whistleblower jokes available. It doesn't work very well for Australians, most of whom rarely see snow and can hardly imagine snow at such depth that anyone would be unable to get out of their house due to being "snowed in."



There are quite a few humorous cartoons about whistleblowing, many

of which have graced the front page of *The Whistle*. Jokes are scarcer. You are hereby invited to send your offerings for publication. To get you started, here are a few attempts.

- The boss addresses a meeting of staff. "I'm going to set a good example by making a public interest disclosure. I'm going public with this disclosure. In the past year, I received \$257 in interest on my savings accounts."

- Boss to whistleblower: "I have good news and bad news. The good news: this envelope for you contains two weeks' pay. The bad news: it also contains your dismissal notice."

- Whistleblower: knock knock. Watchdog agency chief: "Who's there?" Whistleblower: knock knock. Agency chief: "What's that annoying knocking? I can't see or hear anyone."

Knock, knock.

Who is there?

Broken Pencil.

Broken Pencil who?

Never mind, it's pointless.

- Three prisoners share stories about their exploits. First prisoner: "I managed to swindle \$5 million, and it took them a decade to figure out it was me." Second prisoner: "I saved my personal business a tonne of money by dumping hazardous waste in a place I thought no one would ever discover, until someone did." Third prisoner: "I blew the whistle on you two, and you can see where it's got me!"

- Did you hear about the whistleblower who was rewarded with a prize and promotion? I didn't either.

Conference and annual general meeting

Conference

Saturday 23 November 2019
8.15am for 9am

Speakers

Journalists Quentin Dempster and Brian Toohey
CBA whistleblower Jeff Morris
NSW police whistleblower Peter Fox
Live export whistleblower Lynn Simpson
Others TBA

AGM

Sunday 24 November 2019
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 \$40 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 \$30

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 Coolumb Beach BSB 084 620 Account Number 69841 4626 **or**
pay by credit card using PayPal to account name 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

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/>

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

Members of the national committee

http://www.bmartin.cc/dissent/contacts/au_wba/committee.html

Previous issues of *The Whistle*

http://www.bmartin.cc/dissent/contacts/au_wba/

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Thanks to Cynthia Kardell and Lynn Simpson for proofreading.

Whistleblowers Australia conference

See page 23 for details

Annual General Meeting

Whistleblowers Australia's AGM will be held at 9am Sunday 24 November at the Uniting Conference Centre, North Parramatta (Sydney). See page 23.

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 17 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. Use your surname/membership as the reference.

New members: http://www.bmartin.cc/dissent/contacts/au_wba/membership.html