

GOVERNMENT BETRAYS MUCH NEEDED WHISTLEBLOWERS

Those who speak out in the public interest need access to publicity and protection

BRIAN MARTIN

Jean Lennane was a psychiatrist. While working at Rozelle Hospital in Sydney she publicly criticised cuts to funding for mental health services and was sacked as a result. That was in 1990. A few years later she became the first president of Whistleblowers Australia.

Jean was not your typical psychiatrist. In private practice, she listened to her patients and said, to some of them, "You're not crazy — you're a whistleblower."

Whistleblowers are people who speak out in the public interest,

typically about corruption, abuse or dangers to the public. They are found in every occupation, including the public service, education, police, private enterprise, the military and churches. They share little in common except for the experience of suffering reprisals: ostracism (the cold shoulder), petty harassment, damaging rumours, denunciations, bullying, referral to psychiatrists, demotion, punitive transfers, dismissal and black-listing.

Jean used to say there were

only two things that reliably helped whistleblowers. One was talking with other whistleblowers. The other was publicity.

One of the most powerful avenues for publicity is coverage in the mass media.

Journalists, by reporting whistleblower stories, have made an enormous difference.

Media coverage has probably been the most important factor in giving greater legitimacy to whistleblowing. Decades ago, whistleblowing was dobbing on your mate, even when your "mate" was your corrupt boss.

These days, whistleblowers are better recognised as performing a public service.

When Jean said there were two things that reliably helped whistleblowers, it's important to note

what she didn't include: whistleblower protection. Laws have been set up across the country to protect whistleblowers. The trouble is they aren't effective.

I've listened to hundreds of whistleblowers tell their stories. For those who have already spoken out, they tell about reprisals. They also tell about the failure of official channels.

They have gone to bosses, upper management, internal grievance procedures, ombudsmen, auditors-general, industry watchdogs, anti-corruption agencies and politicians, and all too often not received sufficient help. Some of these bodies do their best, but they are underfunded and hamstrung by formal procedures.

There's another problem. While governments have been

passing whistleblower laws, they've done nothing about serious deterrents to public interest disclosures.

Defamation laws are toxic to free speech. We hear about a few big legal cases, but behind the scenes there are thousands of people who do not speak out because of the fear or threat of legal action.

Then there are workplace secrecy and confidentiality provisions, for example ones banning government workers from revealing information acquired on the job. Those with knowledge of problems are afraid of being charged for violating the terms of their employment.

So on the one hand, governments tout their whistleblower protection laws, but on the other hand they leave in place laws rou-

tinely used against whistleblowers.

So predictable are reprisals and the failure of official protection that when someone approaches me about speaking out in the public interest, I say not to do it until collecting large quantities of information and laying the groundwork by building networks and making contacts with journalists or activist groups.

Where possible, I recommend remaining anonymous. This reduces the risk of reprisals and puts the focus on the problem rather than the person who disclosed it. Furthermore, public-interest leakers can remain on the job and continue to expose problems.

Employers hate this, which is why agencies so often undertake a highly publicised search for a low-level leaker — but never pursue

leaks by politicians or top-level public servants.

Searching for leakers sends a message to others: don't do it because we'll come after you.

In recent years, governments have passed laws making it ever more difficult for whistleblowers to be effective. There are laws criminalising whistleblowing and reporting on national security issues. There are data retention laws that enable police to monitor the communications of journalists, enabling the tracking down of their sources of information.

It has become so bad that to be a really effective whistleblower requires the skills of a seasoned dissident under a repressive regime. Information needs to be collected carefully. When contacting a journalist, it's important not to use un-

secured phones. This means using dedicated portals or meeting face-to-face, away from premises that may be under surveillance.

Finally, to add to the disincentives, there are prominent prosecutions of people who have spoken out or helped them. Think of David McBride, Richard Boyle, or Witness K and Bernard Collaery.

The message from these prosecutions is clear. Whatever governments say about protecting whistleblowers, don't rely on it. Heed Jean's advice: talk with other whistleblowers and, if and when ready, get your message out to a wide audience.

Brian Martin is vice-president of Whistleblowers Australia and author of Whistleblowing: A Practical Guide.