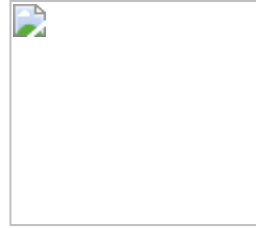


The Whistle

May 1998



Whistleblowers Australia
Inc
Box U129
University of Wollongong
Wollongong NSW 2500
ph. 02 4221 3763

This document is located on

[Suppression of dissent website](#)

in the section on [Contacts](#)

in the subsection on [Whistleblowers Australia](#)

- [MEDIA WATCH](#)
 - [Philip Arantz, whistleblowing scourge of officialdom, dies at 68](#)
 - [When the truth hurts](#)
 - [Before you blow: advice for whistleblowers](#)
 - [In praise of difficult people](#)
 - [When your boss is unscrupulous](#)
 - [Disengage, if practicable](#)
 - [If you decide to stick around, take care of yourself](#)
 - [Document, document, document](#)
 - [If you must bring charges](#)
 - [Workplace bullying](#)
 - [What is bullying?](#)
 - [Why do people bully?](#)
 - [As an individual, what can I do about it?](#)
 - [Step 1: regain control](#)
 - [Step 2: plan for action](#)
 - [Step 3: take action](#)
 - [Public held in contempt](#)
- [ARTICLES AND REPORTS](#)
 - [NSW Police Service whistleblower project: a powerful tool](#)
 - [ACTU conference on stress at work](#)
 - [UK Whistleblowers' Bill: treading lightly on employers' interests in order to gain their support](#)
 - [Valuing whistleblowers](#)
- [WBA DIALOGUE AND DEBATE](#)
 - [Re the Jan ter Horst Case](#)
 - [Whistleblowers' stories](#)
 - [Invitation](#)

MEDIA WATCH

Philip Arantz, whistleblowing scourge of officialdom, dies at 68

By Malcolm Brown, *Sydney Morning Herald*, 5 March 1998, p. 4.

He will go down in history as the archetypal whistleblower.

It was late in 1971 when the then Detective Sergeant Philip Neville Arantz decided he had had enough of the official deception -- the annual announcement of ridiculously high crime clear-up rates. He was determined the public should know the truth.

Mr Arantz, who died yesterday at Dubbo Base Hospital at the age of 68, created history when, through the agency of journalist Basil Sweeney, he had official figures published in *The Sydney Morning Herald* showing reported crime in 1971 was 75 per cent above the figures for 1970. The difference was so huge that it could not be explained by a crime wave.

Mr Arantz had pioneered computerisation in the NSW Police Force and headed the computer unit. But the Premier, Sir Robert Askin -- backed by the Police Commissioner Mr Norman Allan -- blustered.

Mr Arantz was immediately identified as the "leak," certified mentally sick by the Police Medical Officer, Dr A.A. Vane, and frog-marched on the day of the Herald story to a psychiatric hospital where he was kept for three days. The psychiatric report said there was "no evidence of psychosis ... an intelligent man with some obsessional traits, but they are not out of control and in the interview he was at all times alert, rational and showed appropriate effort".

Suspended without pay on December 7, Mr Arantz was charged with departmental misconduct for refusing to answer questions and on January 20, 1972, he was dismissed from the police force with no pension.

His appeal was unanimously dismissed by the Crown Employees Appeal Board. The then Opposition Leader, Neville Wran, referred to Mr Arantz as "this honest man".

Figures were later tabled in Parliament indicating Mr Arantz's version of crime rates was the true one, but he was out in the cold. Sir Robert let it be known that the NSW Government would regard any company that used his services as having committed "an unfriendly act".

Mr Arantz, father of three boys (one deceased) and three girls, stood as an Independent for the NSW Parliament and even contemplated bidding for appointment as police commissioner.

The incoming Wran Government in 1976 was less fervent in support of him than it had been in opposition. But when the Deputy Police Commissioner, Mr Bill Allen, was allowed to retire in disgrace in 1982 on the pension of a first-class sergeant, the unfair treatment of Mr Arantz produced a howl of outrage.

In 1985, the Wran Government paid him \$250,000. He was finally cleared by special legislation, allowing him notional reinstatement in 1989. With his victory behind him, Mr Arantz retired to Dunedoo in mid-western NSW, and in 1993 published his story, *Collusion of Powers*.

When the truth hurts

By Dugald Jellie, Sydney Morning Herald, 7 February 1998, pp 1E-2E.

Telling the truth can be a dirty business. In the workplace it can not only ruin your career prospects, but your livelihood and eventually your health. Following your conscience may also result in your being certified mad.

Tuesday evening, and a group gathers at a historic Presbyterian parish church hall, built on Balmain rock, in Campbell Street. Sixteen people have turned up. They're seated in a circle. A handwritten placard in the corner, leaning against the wall, reads: INVESTIGATE NSW POLICE ROYAL COMMISSION??? HOW MUCH DID THEY FAIL TO INVESTIGATE? But tonight, the talk is of jobs lost. Most at the congregation tell their story, about how their lives have been falling apart, about how they've been trying to put the pieces back together.

It is the weekly meeting of the NSW branch of Whistleblowers Australia. It's a public discussion, a round-table talk, about issues of employment. They're trading the truth. Louise, a former primary teacher with a Grade 3 class in Lithgow, tells everyone how she complained -- blew the whistle -- about an abusive fellow teacher, and slowly lost her job.

Her advice to other teachers with workplace grievances: "Keep your mouth shut if you want to keep your job. Don't get involved in any human rights or civil rights activities because we don't live in a democracy. The government will shut you up if you start speaking out."

On the other side of the room, Diana tells her story, about being weaned out of her job as a public servant working for the NSW Police Service, because she questioned directives from above. Questioned the protocol. "I was asked to clean up files for the Police Royal Commission, and that involved going through the files and making sure there was no incriminating evidence, shredding stuff they didn't want people to know about. I was told not to get involved, it's a management issue."

But she did get involved, did question directives, and didn't last too much longer in her public service position.

Her advice to other employees thinking about making a public disclosure about their workplace? "They should follow their conscience and do what they believe is right, but they should also be mindful that if their employer is going to give them a hard time they're much better off making a lot of noise rather than keeping quiet. They're much better off writing letters to the heads of departments or the minister, because then they'll take notice and won't stamp you out."

In other words, if you're going to blow the whistle, make sure you blow it loud.

It's not easy being a whistleblower. Just ask the former Victoria Police constable Karl Konrad, whose repeated allegations in 1995 led to that State's largest internal corruption investigation, touching about 10 per cent of Victoria's police, over payments to police by window shutter companies. The window shutter investigation, codenamed Operation Bart, led to eight police being dismissed and others facing disciplinary action, fines, demotions and transfers. Three window shutter service operators were found guilty of paying police a secret commission.

For his trouble, Constable Konrad was harassed on the job and eventually sacked in August 1996 while on sick leave. And then private citizen Konrad could barely drive down his own street without being pulled over by police for a licence check, or a roadworthy inspection, or whatever. Eventually, police leaders took his address off the police computer system and put a trace on officers who tried to look him up, and issued a memo ordering members not to pull him over for licence checks.

The verdict: it's a dirty business, telling the truth. Especially if you're a lawman.

In New South Wales, there are former police officers such as Kimbal Cook and Ken Jurotte, who defied the corrupt brotherhood exposed by the Wood Royal Commission and risked their careers, health and livelihood to blow the whistle on police practice and behaviour they rightly considered unacceptable.

And there was the celebrated case of Detective-Sergeant Philip Arantz, the pioneer whistleblower, who in 1971 leaked information to The Sydney Morning Herald showing that crime rates were 70 per cent higher than admitted by the Askin Government and police authorities, and that clean-up rates were lower.

In retribution, the police surgeon declared Arantz mentally ill, he was temporarily placed in a psychiatric institution, departmentally charged, and dismissed from the police force. Then the Premier, Sir Robert Askin, aware that Arantz had specialised computer skills, made it known that any computer company that gave him a job would be regarded by the Government as having committed "an unfriendly act." All this, just for telling the truth.

It was not until 1989 that Arantz finally had his name cleared, was nominally reinstated to the police force, and the Wran Government paid him \$250,000 compensation for his wrongful dismissal.

Fast-forward to 1998, and not much has changed. Cynthia Kardell, the president of the NSW branch of Whistleblowers Australia, says there are ample recent cases of healthy public sector employees being certified as mentally ill to force them out of their jobs, because they have told the truth on workplace issues. She calls it "medical retirement."

"We have complaints from about 30 of our members who have been psychiatrically assessed at the [insistence] of their employers in circumstances that are dubious," she says. "Circumstances in which they have come with information or complaints about occupational health issues, physical or sexual abuse of children, financial matters, fraud, and they have been treated extremely shabbily and then subsequently victimised to the point where they become demoralised."

It is a Big Brother tactic that even the independent umpire, the NSW Ombudsman, is troubled about. "One of the things that agencies do on occasion is to claim that the whistleblower is mentally unstable and ask HealthQuest to do an assessment," says the Deputy Ombudsman, Chris Wheeler. "It is an issue we are particularly concerned about."

In the Balmain church hall, Bob May, 46, a former trade unionist and secondary school teacher at Plumbton High School, tells his story to the public meeting. He says how he spoke up to the Education Department about workplace safety issues, became branded a troublemaker, and was sent to HealthQuest for psychiatric assessment. The upshot was that he was sacked from his job on medical grounds.

"Rather than fix the problem, my employer decided to shoot the messenger," he says of the ordeal. "It was a process of harassment and intimidation that most people just walk away from."

But May says he decided to fight. Like many other public servants who have been assessed as having psychiatric problems, he had a history of criticising health and safety procedures at work, complaining about management, and blowing the whistle on misinformation being supplied by the Education Department. He has since won an appeal in the Industrial Relations Commission, was compensated for his unfair dismissal, and has had his psychiatric report card overturned. He is not insane. He just told the truth, perhaps once too often.

Flip a coin on whistleblowers and there are two sides to the story. The dark side, espoused by many in management, is that they are troublemakers, publicity-seeking ratbags eager to wash dirty linen in the media on any provocation. There is a derogatory Australian colloquialism for them: dobbers.

The shiny side is far more admirable. They are employees who sound the alarm from within the very organisation for which they work, aiming to spotlight neglect or abuses that threaten the public interest, usually at great personal risk. The alarm of the whistleblower is meant to disrupt the status quo: to pierce the background noise, to raise a voice, to blow the whistle on his or her own team for the good of the game.

"If you assume that it's in the public interest to have an efficient and effective and honest public sector, then whistleblowers are one of the major ways of finding out where problems exist," says Chris Wheeler. "The Ombudsman regards the bona fide whistleblower as a good citizen deserving of our thanks. In making disclosures, whistleblowers are performing a valuable public service. They are to be encouraged and protected against and from retribution."

"But often, it seems, it is the perceived bad apples that are removed, not the bad barrels. The reason, no doubt, is that dissent from within is often seen as akin to disloyalty, with the hierarchy also opposed since the whistleblower is usually not only a colleague but a subordinate. And the price of betrayal is usually workplace harassment or victimisation or isolation or demotion or job loss.

Dr William De Maria, of the University of Queensland's school of social work and author of *Deadly Disclosures: Whistleblowing and the Ethical Meltdown of Australia*, which is to be published by Wakefield Press later this year, asks: "What does it say about a society that we are prepared to sacrifice its most ethical members? Why do we have such extreme difficulty in honouring and supporting people who make disclosures in the public interest?"

In NSW, support is given to the public sector whistleblower through the Protected Disclosures Act, with one of its aims to protect employees from reprisals that might otherwise be inflicted on them because of their workplace disclosures. Regarding the act, the 1996-97 NSW Ombudsman's annual report said: "The basic premise upon which our work is founded is that potential whistleblowers have to believe they will be protected and their disclosures properly handled before they will make disclosures."

But despite this legislation, most Public Service employees who tell the truth know too well that the outcome is often one of personal loss. "Far too often in our experience, as soon as somebody blows the whistle, the agency comes down on them like a ton of bricks," says Chris Wheeler. "There's no evidence beforehand of any performance problem, but all of a sudden it crawls out of the woodwork that this person is incompetent, or they haven't been performing to the proper standard."

Research shows that the price paid for blowing the whistle is often high. In the United States, a 1990 survey of 233 whistleblowers, for instance, showed that:

- 90% lost their jobs or were demoted.
- 27% faced lawsuits.
- 25% got into difficulties with alcohol.
- 17% lost their home.
- 25% got divorced.
- 10% attempted suicide.
- 8% went bankrupt.

A similar survey in 1993 under the auspices of Whistleblowers Australia mirrored these findings. The report found that while those who blow the whistle may stay in their job, they are often subjected to informal tactics of abuse such as isolation, removal of normal work, denigration, minute scrutiny of time sheets, repeated

threats of disciplinary action, and referral for psychiatric assessment or treatment.

It is this last form of punitive action that has most of those entrusted with protecting whistleblowers -- the Ombudsman, the ICAC, the Auditor-General, the Police Integrity Commission Inspector (all of whom are nominated investigating authorities under the *Protected Disclosures Act*) -- most concerned. "Certainly when we hear that people have been sent to psychiatric assessment we're very interested to look at why they were sent and what the results are," says Chris Wheeler.

The only thing that remains sure is that blowing the whistle is a practice as old as government itself, and despite everything, the shrill cry will never be silenced.

Before you blow: advice for whistleblowers

Whistleblowing is defined in the US Whistleblowers Protection Act 1989 as occurring when a present or former employee discloses information "which the employee reasonably believes evidences a violation of any law, rule or regulation, or gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to health and safety."

Dr Jean Lennane, a consultant psychiatrist and founder of Whistleblowers Australia, prefers to use a condensed definition: principled organisational dissent. In a research paper she delivered to a conference in Sydney late last year, Whistleblowing and the Protected Disclosures Act, she outlined the dangers of dissenting from the accepted culture, internal principles and practices of the organisation.

Studies showed that 90 per cent of Australian whistleblowers lost their jobs or were demoted; 20 per cent got into difficulties with alcohol; 20 per cent had a long-term relationship break-up; 20 per cent were threatened with a defamation action; 6 per cent attempted suicide; and 9 per cent went bankrupt. Not a good strike rate.

>From the same survey, the advice from whistleblowers was along the lines of "be prepared". It included comments such as:

- have everything documented, with tapes and videotapes if possible;
- learn the legal aspects before you start;
- trust very few people, especially politicians;
- try to blow the whistle anonymously;
- don't expose yourself to your employer -- instead go straight to an outside agency.

The NSW Ombudsman's office says public officials should obtain advice from it (ph 02 9286 1000 or toll free 1800 451 524) before making a complaint. The Protected Disclosures Act 1994 offers protection for public servants who make disclosures which concern:

- corrupt conduct, as defined in the Independent Commission Against Corruption Act 1988;
- maladministration, defined for the purposes of the act as conduct which involves action or inaction of a serious nature that is
 - (a) contrary to law, or
 - (b) unreasonable, unjust, oppressive or improperly discriminatory or,
 - (c) based wholly or partly on improper motives;
- serious and substantial waste of public money.

The advice from Cynthia Kardell, the president of Whistleblowers Australia [NSW branch], is "We think potential whistleblowers should try to do something about it and we try to arm them with the information that will minimise the damage. Sometimes they can do it anonymously. Once you decide there is a problem, you're probably wisest to approach it a bit like a political campaign and lobby your immediate group for support to become a group of concerned citizens, and just keep lobbying up the tree, rather than pointing the finger."

In praise of difficult people

By Moira Rayner

In 1995 I was a member of an inquiry into consumer complaints against the New South Wales Building Services Corporation. Three previous inquiries had already canvassed problems in the building industry and recommended reforms, but many of the individual complaints that had given rise to the inquiries were still unresolved. I spent many hours listening to ordinary people describing the devastating effects that home building problems had had on their lives, and complaining about the institution that should have acted to protect their interests but would not do so.

I have heard many such stories in the last 25 years. The way I chose to practise law -- or perhaps the way that chose me -- drew many women and men to me who felt betrayed by the institutions of government, commerce and the law. There were parents who had lost their children; people who had lost their homes, their livelihoods, their privacy or their reputations.

They tended to come to me, a solicitor, as their last resort. I quickly came to see the signs. They tended to look you very straight in the eye. They would drop in with immense files of laboriously accumulated `proof', heavily annotated in capital letters or tiny script, with numerous exclamation marks. They would produce photocopies of documents of doubtful relevance, gathered over several years, and newspaper clippings underlined and highlighted in rainbow colours. They also came bearing an almost visible burden of disappointment, suspicion and frustration.

Some of them were the clients from hell, the kind whose calls I came to dread. It was easy for them to slip into angry, obsessive,

self-destructive behaviour. They were difficult people to work for, or with. After a while they became convinced that everyone -- even those who were trying to help them -- was involved in a massive conspiracy to deny them justice.

The successful ones were those who set out to connect with others in the same predicament and get something done. Consumer groups with grievances against the Building Services Corporation and its predecessor had done just that, which was why I was sitting on this fourth inquiry. After trying all the official channels of redress, the consumers had decided to find other ways of pressing their case.

They used the media, and used it well. They had 'Defective Homes Exhibitions': they would advertise an 'open house', put up professionally painted signs and flags, just as if it were on sale, and invite the public -- and the media -- to inspect the quality of the work done on their dwellings. It made good television, and it got a response, first from the corporation and then from the responsible ministers. The consumers told their stories to three inquiries into the building industry in the 1980s and 1990s, until finally the incoming Labor government promised to hold a final investigation into their complaints. Typically, by then many of the consumers were incapable of accepting the inquiry's recommendations, because they had lost their trust in government.

They are difficult people, fighting for the right as they see it. They have a black-and-white view about how wrongs ought to be corrected. They are true grit in the universal joint of government and industry. The past will not leave them alone, nor they it. They draw energy from their rage; often they, their families, friends and partners, lose everything in pursuit of the unachievable. They also carry an unconquerable hope, against all reason and experience, that somewhere there is a way out of their hall of mirrors: that, somehow, someone can make the system work for them, someone who will listen, and make others listen.

A liberal democracy is bound to produce more than its share of difficult people -- clients who feel ill-treated by private corporations or government departments, and employees who 'blow the whistle' on practices that they find unconscionable. No matter if they are speaking from inside or outside government, people who complain offend against the old Australian dictum: 'don't dob'. Under threat, the organisation they have attacked will try to overwhelm them; if this fails, it will seek to force them out. As countless studies have shown, large organisations are adept at making life difficult for difficult people.

Yet difficult people -- those who are prepared to stand up for their human rights (and, by extension, others' as well), those who will not bite their tongues when they witness injustice or corruption -- play a vital role in a democratic society. Far more than any political party, they help to 'keep the bastards honest'. Among all the difficult people of this world, whistleblowers -- insiders who reveal information about illegal or unethical practices that they have encountered in the course of their work -- are a class apart. [Rayner goes on in this chapter to describe what happens to whistleblowers, official responses to whistleblowing, the role and shortcomings of

government 'watchdog' organisations (such as the Administrative Appeals Tribunal and anticorruption agencies), and the gutting of Freedom of Information legislation.]

*Moira Rayner is a lawyer and human rights advocate with lots of experience in public affairs. This is an extract from her book **Rooting Democracy: Growing the Society We Want**, published by Allen & Unwin in 1997. It is the opening section of chapter 13, entitled "Whistling up the watchdogs."*

When your boss is unscrupulous

By Robert M. Bramson

Disengage, if practicable

Because coping with unscrupulous or offensive bosses is unpleasant work, removing yourself from the unsavoury situation is often a tempting alternative. It also may be the best one. [...]

Sometimes you can have greater impact by resigning and making public the reasons for your departure. Senior executives who have previously excused borderline behaviour in their subordinate managers often take a closer look when they find that competent employees are leaving. Similarly you may find it less personally arduous to bring culprits to justice when you are no longer a part of the organisation. If you decide to resign before taking action, be sure to keep handy any and all records of your own achievements, commendations, and positive performance reviews. Unhappily the first, and too often successful, defence against the accusations of former employees is that they were discharged or "allowed to resign" for poor performance, and that they are simply being vindictive.

If you decide to stick around, take care of yourself

[...] Have you been ordered by your boss to take part in skulduggery, been subjected to humiliation because of your sex, race, or other personal characteristic, been a witness to political manipulation, or been forced to stand by while a lying boss takes credit for your best ideas? Are there good reasons that prevent you from simply moving out of the morass? [That is, leaving.] If so, do something, anything, to insulate yourself from the unhealthy conditions around you. [...]

Resist Do everything you safely can to covertly jam the works. To the extent possible, be as inefficient as you can without jeopardising your position. Accidentally misplace papers, overrun deadlines, and in other ways throw a few grains of sand in the organisational gearbox. Such minor-league foot dragging can serve two beneficial purposes. First, it can boost your morale. [...] Second, if you and your like-minded colleagues are inefficient enough, and cost overruns accumulate, outside investigators may descend and curb the activities of which you disapprove.

Write down and talk about your feelings When you are forced to violate your personal credo you can expect a serious confusion of emotions -- anger, fear, disgust -- with both your bosses and yourself. You may begin to doubt the rightness of your own values, wondering if you are not in truth too naive to accept the reality that whatever wins has got to be right. To avoid this sense of ethical imbalance, capture your feelings on paper and, if feasible, talk them over with someone you trust. [...]

Consider counselling Most of us, when mired in a seemingly impossible quandary, become so emotionally overloaded that, just when we need the clearest of minds, we find it difficult to think rationally about what to do. Therefore, consider scheduling some visits with a professional counsellor. [...]

Document, document, document

The moment you suspect that your boss is violating the rules of proper behaviour, start collecting evidence. If you receive a signed note from your boss asking you to cook the books or to refrain from hiring someone because of race, creed, national origin, disability, sex, or age, copy it and keep it in your lock box. If you are not fortunate enough to have that sort of clear documentation (and stupid boss), make careful, dated notes that describe every objectionable thing you are asked, or ordered, to do.

Equally important, record what you have done in response, including protests made, when, to whom, and in what form. Where possible, make verbatim notes or tape record conversations that you suspect just might be troublesome later. Keep your documentation in a personal file, and not in the office. (I know of several instances in which employees were summarily fired and escorted off the premises with no opportunity to collect personal belongings.) Consider sealing a copy or two of damaging notes in an envelope, dating it, and asking a creditable witness to hold it for you. While none of these steps will prove that you were not an active party to the shenanigans, they are convincing evidence that you were concerned, that you took appropriate steps to notify others, and that you did not voluntarily participate in the illegal activities. [...]

If you must bring charges

At times you may find yourself forced, by your own ethical standards or by a need to protect yourself, into that arduous and often thankless task euphemistically known as "blowing the whistle." Making nefarious activities public is often an uphill battle for reasons that are understandable if not laudable. If it is your own boss you are accusing, it is unlikely that he or she will cooperate in the investigation and, senior executives, whether or not they plan to remedy the situation later, may move disconcertingly slowly, if, indeed, they move. Those in charge often take as their first responsibility ensuring their organisation's survival and growth. Neither of those objectives are advanced when illegal or unethical activities become public. Unfortunately it's almost always easier for an organisation to get rid of the problem by getting rid of the

employee, than to reform the lack of controls or implicit sanctions that allowed the unsatisfactory conditions to arise. [...]

Try for collective security Do your best to engage your colleagues in a joint whistle-blowing undertaking. For one thing, it will be more difficult for others to doubt your credibility or take vindictive action against you, if more than one of you is alleging wrongdoing. At least you'll know that if your complaint gets serious attention, you'll have witnesses to call on. [...]

Attack the problem, not the person Even responsible executives are reluctant to accuse a subordinate manager with whom they've had years of a friendly relationship. However, they are usually quite willing to institute measures designed to correct an organisational "systems problem." By accusing the system, rather than the person, you improve your chances of closing down the offensive activities. To achieve one goal -- stopping the sleazy machinations, you may have to give up on another -- seeing the rat properly stomped. Examples of this approach are:

- Note in suggestion box (assuming it's ever opened): "It might encourage creativity if employees could send their 'bright idea bonus' suggestions directly to the human-resources office without having to get their boss's okay."
- Memo or "chance" remark to corporate controller: "It appears to me from my position as a district office bookkeeper that a random comparison of service-call invoices with employee time cards might be a useful safeguard."
- Memo to training department: "I've had some experiences that lead me to believe that additional training for managers on eliminating sexism (racism, age discrimination ...) in our organisation would be worthwhile."

To be sure, such proposals might just provoke further inquiries, to which you will respond matter-of-factly by describing why you believe that the changes you proposed are necessary, with documentation if requested. Try to remain a problem-solver, rather than an accuser, at least until those inquiring have voiced their own concerns that your boss is out of line. Why is this approach effective? My hunch is that your stance as a problem-solver puts you on the side of the organisation, at least in the eyes of those with power to change things. You are not a troublemaker. Just a good citizen after the same goal of proper conduct that the organisational standard-bearers say they want. At least it increases your chances of being supported rather than placated, ostracised, or attacked. [...]

Coping with people who lack scruples is a complicated affair. It's easy to feel immobilised just by the difficulty of knowing what isn't acceptable behaviour these days. [...] At such times, the only dependable litmus test of proper behaviour is what your own deeply held convictions say it is. If you find yourself swept into activities that you believe are wrong, take some active steps to cope, no matter how small. That may be all that you need do to survive, and even learn from the experience. [...] most successful people have survived and even benefited from encounters with noxious bosses. They gained inner strength, they learned what not

to do when themselves in positions of power, and, as a kind of bonus for hazardous duty, they often earned considerable credit from others for coping effectively with their Schemers, Scalawags, and Skunks.

*Robert M. Bramson's book **Coping with Difficult Bosses**, published by Allen & Unwin in 1993, is an excellent source of insight and advice for employees. Difficult bosses include bullies, stallers, power clutches, know-it-alls and the unscrupulous. Coping with Difficult Bosses describes five major types of difficult bosses, tells what drives them and how to deal with them. Bramson gives many real-life examples of problems and how to address them. These passages are extracts, leaving out examples, from chapter 6, "When Your Boss Is Unscrupulous or Offensive: Scalawags, Schemers, and Skunks," pp. 104-114. When text is omitted, this is indicated as [...]. Get the book for the full picture.*

Workplace bullying

By Tim Field

Bullying at work is of special relevance to whistleblowers for two reasons. First, whistleblowers are often subjected to bullying. Second, some people want to blow the whistle about the abuses committed by bullies.

*The pioneering book on this subject was Andrea Adams, **Bullying at Work: How to Confront and Overcome It** (London: Virago, 1992). In the past couple of years, a number of other resources have become available.*

*Tim Field has set up an extensive web site about workplace bullying. Have a look at <http://www.successunlimited.co.uk/>. It is packed with valuable information on what bullying is, profiles of bullies, what bullying does to your health, how to respond, and further references. You can also order Tim Field's book, **Bully in Sight: How to Predict, Resist, Challenge and Combat Workplace Bullying** (UK: Success Unlimited, 1996, ISBN 0-9529121-0-4).*

Here are some extracts from Tim Field's web site.

What is bullying?

Bullying is persistent unwelcome behaviour, mostly using unwarranted or invalid criticism, nit-picking, fault-finding, also exclusion, isolation, being singled out and treated differently, being shouted at, humiliated, excessive monitoring, having verbal and written warnings imposed, and much more. In the workplace, the bullying focuses on distorted or fabricated allegations of underperformance.

Why do people bully?

The purpose of bullying is to hide inadequacy. Bullying has nothing to do with managing etc.; good managers manage, bad managers bully. Management is managing; bullying is not

managing. Therefore, anyone who chooses to bully is admitting their inadequacy, and the extent to which a person bullies is a measure of their inadequacy. Bullies project their inadequacy on to others:

- (a) to avoid facing up to their inadequacy and doing something about it;
- (b) to avoid accepting responsibility for their behaviour and the effect it has on others, and
- (c) to divert attention away from their inadequacy - in an insecure workplace, this is how inadequate and incompetent employees keep their jobs.

Bullying is an inefficient way of working, for it results in disenchantment, demoralisation, demotivation, disaffection, and alienation. Bullies run dysfunctional and inefficient organisations; staff turnover and sickness absence are high, whilst morale, productivity and profitability are low. Prosperity is illusory and such organisations are a bad long-term investment. Projection and denial are hallmarks of the bully.

Bullying is present behind all forms of harassment, discrimination, prejudice, abuse, persecution, conflict and violence. When the bullying has a focus (e.g. race or gender) it comes out as racial prejudice or harassment, or sexual discrimination and harassment, and so on. When the bullying lacks a focus (or the bully is aware of Sex Discrimination Act or the Race Relations Act), it comes out as pure bullying; this is an opportunity to understand the behaviours which underlie almost all reprehensible behaviour. I therefore believe bullying is the single most important social issue of today.

Bullying is a form of abuse, and bullies - and unenlightened employers - often go to great lengths to keep their victims quiet, using threats of disciplinary action, dismissal and gagging clauses. What bullies fear most is exposure of their inadequacy and being called publicly to account for their behaviour and its consequences.

Despite the facade that such people put up, a bully has low self-confidence and low self-esteem, and thus feels insecure. Low self-esteem is a factor that all studies of bullies have highlighted. Because such people are inadequate and unable to fulfil the duties and obligations of their position (but usually have no hesitation in accepting salary), they fear being revealed. This fear of exposure often borders on paranoia.

Bullies are people who have not learned the lesson of consequences, i.e. that if they behave well there are good consequences (e.g. reward), but if they behave badly there are bad consequences (restriction, punishment, etc.). Since childhood, bullies have learnt that they can avoid the unpleasant consequences of bad behaviour through the instinctive response of denial, blame and feigning victimhood.

Serial bullying is a lifetime behaviour, and this type of bully has done it before, is doing it now, and will do it again. If you have a serial bully operating (and surviving and thriving), they are usually supported by their manager, and so on all the way to the top. The

person who asserts their right not to be bullied is therefore blowing the whistle on incompetence - and thus pays the price. Most people who are bullied out of their job find themselves without job, without career, without health, without livelihood, and sometimes without marriage and family. Legal action is expensive, the law is inadequate, many solicitors do not know how to handle bullying cases (but may charge several thousands of pounds anyway). The bullied individual cannot get another job because of their health record (which may have included a year or two off work, plus impaired current health) and the fact they've taken their previous employer to tribunal (and are therefore seen as a troublemaker). The bully usually refuses to provide a reference, or provides a deliberately bad or indifferent one; this act alone is usually enough to prevent further employment, especially in the professions.

Pressure bullying is where the stress of the moment causes behaviour to deteriorate; the person becomes short-tempered, irritable and may shout or swear at others. Everybody does this from time to time, but when the pressure is removed, behaviour returns to normal, the person recognises their inappropriate behaviour, makes amends and may apologise, and learns from the experience so that next time the situation arises they are better able to deal with it. This is "normal" behaviour and I do not include pressure bullying in my definition of workplace bullying.

Corporate bullying is where the employer abuses employees with impunity, e.g.:

- coercing employees to work 60/70/80-hour weeks on a regular basis then making life hell for (or dismissing) anyone who objects
- dismissing anyone who looks like having a stress breakdown as it's cheaper (in the UK) to pay the costs of unfair dismissal at Industrial Tribunal than risk facing a personal injury claim for stress breakdown
- introduces "absence management" to deny employees annual or sick leave to which they are genuinely entitled
- regularly snoops and spies on employees, e.g. by listening in to telephone conversations, using the mystery shopper, contacting customers behind employees' backs and asking leading questions, sending personnel officers or private investigators to an employee's home to interrogate the employees whilst on sick leave, threatening employees with interrogation the moment they return from sick leave, etc.
- "encourages" employees (with promises of promotion and/or threats of disciplinary action) to fabricate complaints about their colleagues
- employees are "encouraged" to give up full-time permanent positions in favour of short-term contracts; anyone who resists has their life made hell.

Serial bullying is where the source of all dysfunction can be traced to one individual, who picks on one employee after another and destroys them. This is the most common type of bullying I come across; most of this web site is devoted to describing and defining the serial bully, who exhibits the symptoms of Antisocial Personality Disorder (APD). Most people know at least one person in their life with the profile of the serial bully; most people do not

recognise this person as a serial bully. [An in-depth analysis of serial bullying is given elsewhere on the web site.]

Pair bullying is a serial bully with a colleague. Often one does the talking whilst the other watches and listens. It's the quiet one you need to watch.

Gang bullying is usually caused by a serial bully, for every gang has a leader; I call this person the arch-bully. It tends to be more common in corporate bullying climates. If the bully is an extrovert, they are likely to be leading from the front; they may also be a shouter and screamer, and thus easily identifiable (and recordable on tape and video-able). If the bully is an introvert, that person will be in the background initiating the mayhem but probably not taking an active part, and may thus be harder to identify. A common tactic of this type of bully is to tell everybody a different story - usually about what others are alleged to have said about that person - and encourage each person to think they are the only one with the correct story. Introvert bullies are the most dangerous bullies.

Half the people in the gang are happy for the opportunity to behave badly, they gain satisfaction from the feeling of power and control, and enjoy the patronage, protection and reward from the arch-bully. The other half of the gang are coerced into joining in, usually through fear of being the next victim if they don't. If anything backfires, one of these coercees will be the sacrificial lamb on whom enraged victims will be encouraged to vent their anger. The arch-bully watches from a safe distance, satisfied and gratified.

In environments where bullying is the norm, most people will eventually either become bullies or become victims. There are few bystanders, as most of these will be sucked in. It's about survival: you either adopt bullying tactics yourself and thus survive by not becoming a victim, or you stand up against bullying and refuse to join in, in which case you are bullied, harassed, victimised, and scapegoated until your health is so severely impaired that you have a stress breakdown (this is a psychiatric injury, not a mental illness), take ill-health retirement, leave, or are unfairly dismissed.

The typical sequence of events is:

- the victim is selected [using criteria listed on the web site], then bullied for months, perhaps years
- eventually, the victim asserts their right not to be bullied, perhaps by filing a complaint with personnel
- personnel interview the bully, who uses their Jekyll and Hyde nature, compulsive lying, and plausibility to tell the opposite story
- it's one word against another with no witnesses and no evidence, so personnel take the word of the senior employee
- the personnel department are hoodwinked by the bully into getting rid of the victim
- once the victim is gone, there's a period of between 2-14 days, then a new victim is selected and the process starts again (bullying is an obsessive compulsive behaviour and serial bullies seem unable to survive without a current victim)

- even if the employer realises that they might have sided with the wrong person in the past, they are unlikely to admit that because to do so may incur liability
- if legal action is taken, employers go to increasingly greater lengths to keep victims quiet, usually by offering a small out-of-court settlement with a comprehensive gagging clause.

As an individual, what can I do about it?

Bullying is often hard to prove, as it takes place behind closed doors with no witnesses and no evidence. When called to account, the bully uses their Jekyll and Hyde nature to lie compulsively and convincingly.

Step 1: regain control

- Recognise it as bullying - it is the bully who has the problem, which he or she is projecting on to you. When you realise that the criticisms and allegations are a projection, every criticism or allegation can then be seen as an admission by the bully of something they have said or done.
- You are not alone - surveys suggest this is happening to between 3 and 14 million employees in the UK.
- You may be encouraged to feel shame, embarrassment and guilt - this is a normal reaction, but misplaced and inappropriate. This is how all abusers, including child sex abusers, silence their victims.
- You cannot handle bullying by yourself - bullies use amoral behaviour and abuse of power. Get help. There is no shame or failure in this - the bully cheats.

Step 2: plan for action

- Find out everything you can about bullying - knowledge is growing all the time.
- [Other sources of information are given on the web site.]
- Overcome all the misperceptions about bullying (that "it's tough management", etc.)

Step 3: take action

- Keep a log of everything - it's not each incident that counts, it's the number, regularity and pattern that tells you it's bullying. With most forms of mystery, deception, etc. it's the patterns that are important.
- Keep copies of all letters, memos, emails, etc. Get and keep as much in writing as possible.
- Record everything in writing; when allegations are made, write to the bully and ask for justification in writing. When the bully doesn't reply, write again pointing out you've asked for justification and the bully has chosen not to reply.
- See your GP - bullying causes psychiatric injury. If stress is diagnosed, make sure it includes the cause, e.g. stress caused by conditions in the workplace. If depression is diagnosed, make sure it is recorded as reactive depression.

- [Numerous other actions are listed on the web site.]
-

Public held in contempt

By Richard Ackland, Sydney Morning Herald, 6 February 1998

One of the greatest pieces of television docu-drama ever made in Australia has been kept off the screen in NSW and the ACT for more than two years. ABC viewers in every other jurisdiction have seen, at least twice, *Blue Murder*, the gripping story of the life and times of Arthur Stanley Smith, Roger Rogerson, Christopher Dale Flannery, "Abo" Henry, Tony Eustace, Sallie-Anne Huckstepp, Brian Alexander, Warren Lanfranchi plus the terrible shooting of Michael Drury.

These were household names in Sydney during the 1970s and `80s and screenwriter Ian David and director Michael Jenkins, with actors such as Richard Roxburgh, Tony Martin and Bill Hunter, have portrayed their netherworld so brilliantly that one's view of law and justice in Sydney will never be the same again.

The reason why the public of NSW and the ACT has been quarantined from such viewing pleasure is that since 1995 Arthur Stanley (Neddy) Smith has been expected to stand trial on several charges of murder. Smith was originally charged with six murders and at his committal in September 1996 three of those original six ended up being sent for trial. He is to be tried for allegedly murdering Lewton Shu, Harvey Jones and Sallie-Anne Huckstepp. We now have a trial date - July 13, 1998. The hearing could take between three and four months and only after it is over, along with the appeal process and any possibility that a retrial might be ordered, will the citizens of this State get an opportunity to have *Blue Murder* programmed for viewing.

In the subterranean world, videos of *Blue Murder* have been quietly handed about for years and there must be tens of thousands of people who have seen what is meant to be quite forbidden to them.

What has kept this artistic endeavour officially off the screen for so long is the law's notion that anyone serving on Smith's jury and who might have seen *Blue Murder* would be unable to bring a clear and unbiased mind to the evidence before the court. In this instance the law attempts to balance the rights of the individual to a fair and unblemished trial, with the rights of the community to have a thrilling time watching a bit of quality Australian telly.

Of course, there is no such balance; the law says that the right to a fair trial comes first, even though such an outcome is based on a fairly large presumption.

It assumes, without any basis of fact, that the average citizen is incapable of discerning the difference between a beautifully crafted piece of television drama and evidence tested under cross-examination in a court room. Jurors are assumed by the criminal justice system to be soft in the head and in need of protection. In a

sense the law equates the modern jury to the yokel in bowyangs, a million miles from the communications revolution.

It is a matter of public notoriety that this softness in the head ascribed by the law to the average citizen is not the same standard applied to those deemed more enlightened. Ian Callinan, the new High Court justice, for instance, possesses an intellectual rigour that allows him to impartially judge the evidence in the Hindmarsh Bridge case before the court, even though as a barrister he wrote an opinion which said that the legislation which paves the way for the construction of the bridge is perfectly valid. No worries about that at all. The person on the Bondi omnibus is to be kept in cotton wool so that the evidence in the Smith case can be determined impartially, but a High Court judge remains unaffected by his own prior opinion when it comes to sitting in judgment on the constitutionality of legislation. Such is the symmetry and beauty of the law.

It is also pretty rich to assume, that *Blue Murder* or not, that most potential jurors will know nothing about the Neddy Smith legend, or that he is already serving a life sentence for murder. This information is part of the folklore of Sydney.

Apparently the NSW Attorney-General is to refer a discreet aspect of contempt law to the Law Reform Commission. The reference should be widened and a proper study made on the effect of allegedly prejudicial material on the minds of modern day jurors.

[This case also raises issues of free speech and the ability to expose corruption.]

ARTICLES AND REPORTS

NSW Police Service whistleblower project: a powerful tool

By Jean Lennane

In 1995, WBA suggested a research project to the NSW Police Service. We did so through their Internal Witness Advisory Council (IWAC), of which WBA is a member, together with the Independent Commission Against Corruption, the NSW Ombudsman, and the St James Ethics Centre. (We withdrew for a few months when the police hierarchy were continuing harassment of a particular whistleblower, but rejoined after they agreed to stop.) To their great credit, the Police Service agreed to do the research. The first project was completed in December 1996. A follow-up has just been completed. It hasn't yet been released publicly, but I hope will be soon.

The two projects together show enormous potential for monitoring corruption-prone organisations and keeping them on track. The basic design of the projects was to compare police who had registered with the Internal Witness Support Unit as

whistleblowers ('Internal Witnesses') with two other groups of police: a control group, of police with serial numbers on either side of each whistleblower; and the 'complained against' group, of police the whistleblowers had blown the whistle on. The three groups were compared on concrete measures of sick leave rates, workers compensation claims, use of welfare, rehabilitation and psychology services from the Employee assistance Branch, rates of medical discharge, and rates of exit from the service, including reasons for exit. In addition, the WBs were interviewed using a standardised questionnaire, about their experiences of victimisation etc.

There were 131 WBs in the first study (those who registered with the Unit from its beginning in 1 February 1994 until the cut-off date of 30 June 1996, and were still in contact at the time the study was done); and 78 in the second (registered from 1 July 1996 to 30 June 1997). The first study had 190 controls and 192 complained against (CAs); the second had 99 controls and 118 CAs. That is, they were large studies, and as far as possible were not selective. As far as I'm aware, they are the only studies of their kind in the world. The external researcher, Pamela Freeman, has been awarded a Churchill Fellowship to study these issues further in the USA.

As Pamela Freeman said when presenting the latest results, there's good news and bad news. The good news is that WBs are now taking less sick leave than CAs, though both take more than the controls. WBs used to take 3.55 times more sick leave than controls, now only 1.62 times. WBs are still claiming workers comp more than twice as much as controls, and still more than the CAs; however there has been a significant drop in the percentage of WBs who claim workers comp, and an increase in the percentage of CAs who do so. As in the first survey, there is a significant correlation between WBs experiencing victimisation and making a workers comp claim. On exits from the service, WBs are now leaving no more frequently than controls, whereas CAs are leaving twice as often, frequently being medically discharged. In summary, the good news is that the bad guys are now getting sick and leaving the service more often than the good guys. As any whistleblower knows, this is a truly remarkable turnaround.

The bad news, which also has its good side, is that victimisation of WBs by superior officers, which was virtually non-existent in the first survey (while the Police Royal Commission was still breathing down their necks) has reappeared in the latest one. This is mostly at sergeant level, and the good side is that it gives a very clear indication of where the service should target its education and prevention efforts. A common type of victimisation is refusing to give WBs overtime, and otherwise getting at them through the roster system. This therefore is another concrete measure that can be used to monitor the behaviour of likely victimisers, and should appear in the next survey.

I have been very impressed with the obvious change in attitude among the senior police who attend the IWAC meetings. They now seem to realise the value of whistleblowers to the service, and are enthusiastic about what they are doing in this area, which they rightly see as leading Australia -- possibly the world. There are still a lot of problems in the service, and no doubt still a lot of

corruption, but the direction has definitely changed at the top, which is the vital first step.

Police services in other states are now looking at the NSW WB protection and monitoring model, with a view to adopting it -- Queensland, Victoria and South Australia so far. How well it would work without the backup of a royal commission and an imported and squeaky-clean, non-brotherhood commissioner I don't know, but it will be interesting to see. WBs in those states should be aware of the proposal, and also of the other factors that are essential to its success: an overseeing advisory council that includes WBA representation, on the understanding that WBA's continued involvement is absolutely conditional on the police service not victimising WBs; and ongoing monitoring research by a reputable external researcher.

ACTU conference on stress at work

By Jean Lennane

This conference on 3 April 1998 was based on a survey done by the ACTU last year on stress at work. They circulated a simple 2-page questionnaire asking about stressful conditions at work, symptoms of stress, and time off work because of stress. They expected a few hundred replies, but got over 10,000, most of them with extra comments written on them, or extra pages attached. This made them realise there's quite a problem out there!

The summary findings were that one in four respondents had taken time off due to stress at work; the most stressful conditions reported were lack of communication and consultation, increased workload, organisational change and restructuring, and job insecurity. Symptoms of stress most commonly reported were headaches, continual tiredness, anger and sleeplessness.

As WBs know, the above workplace conditions are highly relevant to whistleblowing -- wrongdoing of various kinds, if only the exploitation of staff, is rife, and lack of any job security renders any WB even more vulnerable.

The survey is available through the ACTU occupational health and safety unit.

It is interesting that what is turning into an epidemic of work-related stress is being dealt with so far by removing stress as a diagnosis, and therefore as an issue, from the workers compensation system. WBs need to be aware of this -- if you develop 'depression' or 'anxiety' as a result of being victimised at work you can be compensated; but a claim for 'stress' will be thrown out.

You also need to be aware that at the same time as 'stress' has disappeared as a legitimate compo diagnosis, there is an increasing body of highly reputable, hard medical research on its effects.

One effect that is now beyond dispute is the relationship of stress to depressive illness. There was a good review article on this in the

British Medical Journal last year (Vol. 315, 1997, pp. 530-535) which is available from me or Cynthia Kardell -- relevant if you are running a compensation claim for depressive illness, and the employer is denying that it can be caused by stress. There is also reputable research on the effect of stress on the heart -- as a factor in causing atherosclerosis in the long term, and heart attacks and/or sudden death in the short term. A speaker at the conference referred to research showing an increase in sudden deaths from heart attacks during the Los Angeles earthquake -- more frequent the closer people were to the epicentre. This is very relevant to some of the more brutal treatment meted out to WBs by employers, as well as to non-WB victims of restructuring, if they are told for example to pack up and leave at a few minutes' notice after many years of loyal service. A test case or two where such a victim has a heart attack and is awarded significant damages could do wonders in modifying that kind of behaviour. (List of references available from me.)

UK Whistleblowers' Bill: treading lightly on employers' interests in order to gain their support

By Kate Schroder

British employees who are considering blowing the whistle on serious wrongdoing in the workplace may be advised to hold their breath until the end of this year, when protective legislation looks set to be in force. Richard Shepherd's Public Interest Disclosure Bill raced through recent Standing Committee debate in just fifty-seven minutes, a record in the memories of several long-serving MPs in attendance.

Presented as an amendment to the existing Employment Rights Act 1996, the Bill is potentially far-reaching, having access to all sectors and occupations (excluding those bound by Secrecy Acts) and extends protection to voluntary workers and the unemployed undertaking work experience. Government undertaking was given during the debate to review current Police Acts in order to bring them in line with this Bill. As a consequence, whistleblowers in uniform will soon have the same protection from victimisation as their civilian comrades.

The Bill proposes that protection be extended to employees who are able to indicate that they acted in good faith, but allows practical application of its recommendations to follow the dictum of individual appropriateness. In order to qualify for protection, the employee must be able to indicate that s/he reasonably believed that her/his disclosure was of a "criminal or civil breach of the law, a miscarriage of justice, danger to health and safety or damage to the environment, or a concealment of any of these matters". It is in the use of the two phrases 'in good faith' and 'reasonable belief' that future difficulties in the application of this legislation may arise. It is widely recognised by whistleblowers and professionals working with the issue that the processes associated with decision-making are complex, individual to each organisation, and difficult

to predict (or control). In the light of this, it may be difficult to expect the employee, under such pressured and difficult circumstances, to be able to later prove to a tribunal either of the two requirements. It may be said that the onus of proof has been shifted to the concerned employee rather than the organisation or employer. It has also been said that, where serious wrongdoing is discovered and reported by an employee, the motives for doing should not affect the quality of protection from victimisation.

Preferred routes for reporting are indicated by the Bill. Employees are advised to raise their concerns in the first instance through internal reporting systems, but recognises that there are instances where this would be inappropriate such as where the employee is able to indicate that victimisation or a cover-up would follow. External reporting is suggested to be best aimed at pre-appointed agencies, they being able to investigate independently and without drawing unnecessary attention to the whistleblower. Some concern has been expressed as to the responsibilities such pre-appointed agencies may, or may not, have should they fail to act efficiently, fairly or properly. In extreme cases, where health and safety is compromised or vulnerable groups at risk of abuse, the Bill recognises that media disclosure may be worthy of protection. The employee should be able to indicate that s/he was confident of the accuracy of detail and severity of the case.

Many whistleblowers complain of the slow build-up of victimisation, ending in dismissal. Through the application of speedy interim relief, where sought within seven days from dismissal, the Bill seeks to put an end to escalating instances of retaliation to whistleblowing. In the event that the employee is able to indicate that dismissal was likely to have been in response to whistleblowing, the tribunal is able to order reinstatement. Where such orders are ignored, the court will consider the employee to still be in employment and compensation will include consideration of salary and other benefits.

Further clarification is sought by the backers of this Bill, and all of its consultees, regarding the levels of compensation to be awarded to whistleblowers. The Government prefers an option that operates to a fixed ceiling, making the comparison between whistleblowers and pension right trustees or health and safety workers. The opposing argument is that, employees victimised because of their race, creed, gender or sexuality, enjoy a level of protection limited through calculation of mitigation of loss, the effects of victimisation and individual circumstance. The practical effects of maximum awards such as those proposed for whistleblowers will mean that middle range managers or professionals will not expect to be compensated for loss of salary, never mind damage to health, reputation or the prolonged effects of boycotting from their own trade or industry. Consequently, the group shown by all available literature and research to be most likely to blow the whistle will be afforded the least protection.

It has been said that British Industry would not back a Bill that proposed a removal of ceilings for awards. On the morning of the debate, the Confederation of British Industry (CBI) was reported to be endorsing removal. The Government now understands that they stand alone in this aspect of the Bill and it is expected that

clarification will be provided prior to it coming into force before the end of this year. It would appear that whistleblowing is no longer a contentious issue. Media reporting has been light, some indication of the failure to find a newsworthy angle when traditional enemies now appear to agree. The Bill is backed by the CBI and the Institute of Directors, all major political parties and the TUC Affiliated Unions. Organisations which broadly oppose the right for protection against victimisation, within the limits prescribed by the Bill, do so in the knowledge that they do not have the support of their allies.

Employees choosing to victimise whistleblowers in future risk the prospect of facing legal action without understanding how the statutory instrument managed to slip by them unnoticed. Employees considering blowing the whistle might well be advised by another to wait until this Bill is in force. They should be aware of its requirements before proceeding. Then, as Bogart said, "just put your lips together and blow".

Valuing whistleblowers

By Brian Martin

Whistleblowing is a risky business. Most whistleblowers suffer in various ways, including ostracism, harassment, punitive transfers, reprimands, referral to psychiatrists and dismissal. Bosses and top managers are responsible for many of the attacks on whistleblowers, but coworkers often join in or do nothing, often due to fear that they could be the next victims.

If more people considered whistleblowing to be a valuable contribution to society, then these sorts of responses would be less common. But how can the perception of whistleblowing be changed? Surprisingly, there are insights to be gained by examining society's responses to people with intellectual disabilities. Let me explain.

Last year, I joined the board of Illawarra Citizen Advocacy, one of a number of citizen advocacy branches in Australia and in several other countries. Staff at citizen advocacy search for people in the community with intellectual disabilities and who are in greatest need. These people are called proteges. For each protege, the staff then seek to find someone in the community to be that protege's advocate. Being an advocate is a freely given relationship. There is no money nor other benefits involved. Once the relationship is set up, citizen advocacy staff can provide support, but the advocates are responsible for taking action on behalf of their proteges.

Many proteges are clients of government and private service organisations, and sometimes these organisations are part of the problem. Advocates often have to become whistleblowers about failures of the service organisations. I'm not an advocate myself, but have taken on the role of advocate associate, namely someone to help advocates.

The inspiration behind citizen advocacy is the work of Wolf Wolfensberger, a professor at Syracuse University in New York.

Wolfensberger has developed a theory that is relevant. It is now known as "social role valorisation". Yes, it's a mouthful! What it means is giving value to people through the roles they are associated with in society. I learned about the theory at a three-day workshop in November, run by John Armstrong.

Social role valorisation, or SRV, has many dimensions. Here I can only indicate a few highlights that are relevant to whistleblowers. The basic idea is that certain people are severely devalued in society, with all sorts of undesirable consequences, and that this can be countered by associating them with valued social roles.

Let's start with the concept of social devaluation, which is when someone thinks of someone else as having little or no value because of some characteristic. It might be, for example, because they have a physical or intellectual disability, have a criminal record, are homeless or drug-dependent. Sometimes an impairment actually defines a person, as suggested by the words "amputee" and "addict".

Some of the most common "wounds" suffered by devalued persons (especially ones with disabilities) are:

- physical impairment;
- functional impairment;
- being assigned low social status, often as a "deviant";
- rejection by family, friends and others;
- being put into a deviancy role;
- symbolic marking or stigmatising;
- being put at a distance;
- loss of continuity with one's surroundings.

These are only 8 of the 21 common wounds listed in our handout, but they give a good idea of what's involved. One thing to note is that the most severely devalued people in society are far worse off than the typical whistleblower. Some people with disabilities have a lifetime of degradation and abuse, being neglected, assaulted physically and sexually, humiliated, prevented from working, denied friendships and even allowed to die unnecessarily. Coming under attack as a whistleblower can give some inkling of the profound wounding experienced by many who have been devalued all their lives.

Whistleblowers suffer some of the wounds experienced by devalued people. For example, whistleblowers are commonly assigned a low social status, being called a dobber, traitor, incompetent, etc. Rejection by coworkers is common, and rejection by family and friends sometimes occurs too.

There are many deviancy roles into which devalued people can be put, including pity, charity, menace, sick, sub-human, ridicule, dread, child and holy innocent. A person with an intellectual disability could be put into any of these roles. A whistleblower is commonly put into only one or two: treated as a menace or object of dread, or treated as someone who is sick or diseased.

People with disabilities are often put at a distance from others, especially by being put in institutions together. Whistleblowers are sometimes subject to a similar process, for example when they are

assigned to an office away from anyone else or, in exceptional cases, in a building that is otherwise unoccupied.

People with disabilities are often moved around against their will for bureaucratic reasons, breaking their spirit and their links with others, especially defenders. Forced transfers of whistleblowers have a similar dynamic.

Service organisations are supposed to help people with disabilities, in everything from rehabilitation, education, housing, transport, eating, and jobs, depending on the degree of need. Yet, all too often, services do not work well. Indeed, rather than helping, they may cause increased wounding. Some of the systems that were set up to help devalued people ended up being the main source of their problems. That's exactly why advocates are needed.

This is analogous to the problems that whistleblowers face when reporting on corruption or dangers to the public. The official bodies that are supposed to deal with these problems do not work well and, in some cases, make the problems worse by discouraging or discrediting whistleblowers.

Devaluation is largely an unconscious process. Those who devalue others, without even being aware of it, have picked up attitudes and modes of thinking that cast others into stigmatised roles. This is one important reason why it's so hard to change the situation of devalued people. Each of us has probably picked up perspectives that make us devalue certain others - usually those who are also devalued by most other people.

So much for the problems. What about solutions? The idea behind SRV is that devalued people should be put into or associated with valued social roles. This helps to counter the normal processes of devaluation. For example, rather than letting an adult with disabilities to appear in public sloppily dressed in children's clothes, they should be helped to be well groomed and smartly dressed, for example in a suit. Rather than living in a segregated facility next to the cemetery or abattoir, they should live in a conventional-looking house on a suburban street. Rather than working in a segregated workplace making garbage bags or pet products, they should work next to able-bodied workers making electronics or heart valves.

In each case, the person should be put in or associated with valued social roles. The same applies to whistleblowers.

In terms of language, the term "dobber" should be rejected and more valued terms promoted, such as "whistleblower", "principled organisation dissent" and "free speech". Whistleblowers Australia has helped make attitudes to the term "whistleblower" more positive. Slogans such as "black is beautiful" have helped to change attitudes. Thought needs to be given to the most effective way to shape perceptions of whistleblowing.

A professional image is important. Media releases, letters, leaflets, articles and submissions should look professional as well as having good content. Venues for whistleblower meetings should, if possible, be in locations conferring status.

For whistleblowers who are still employed where they have blown the whistle, it makes sense to keep up appearances and keep good company. This might mean dressing especially smartly, showing up at all important meetings, and chatting with high-status people when possible. This may help to counter ostracism and wounding caused by putting the whistleblower at a distance.

For whistleblowers who lose their jobs, it is worth seeking alternative employment in a valued occupation, or perhaps doing volunteer work in a socially valued area. A person who is perceived as making a worthwhile contribution to society is more likely to win support.

Another implication is that whistleblowers should try to get people in valued positions associated with their cause. Examples are doctors, lawyers, scientists, business executives and public figures. (To be sure, people in some of these occupations are the cause of the problems about which whistleblowers complain, and a whistleblower's attitude to these occupations may be quite negative. The general principle still applies, though.)

SRV might also suggest that whistleblowers should seek vindication through high-status avenues. That is exactly what most whistleblowers do: they pursue their cases through formal grievance procedures, make submissions to ombudsmen or anticorruption bodies, use the courts and approach parliamentarians. The problem is that official channels seldom work, and often waste time and effort or even make things worse. Far more effective in getting results is mobilising support, especially through use of publicity. This can, in a general sense, be called social action. It may be more effective, but it has a lower status than official channels.

Politicians and top bureaucrats prefer that people use official channels because they are essentially part of the system. It is almost impossible to make a significant change to the system by working through the normal channels. Social movements, such as the environmental movement, women's movement and peace movement, can be seen as a response to social problems that are caused by dominant groups. Movements are necessary because the official channels don't work to fix problems. Movements do not have the status of established institutions because they are a threat to those institutions.

Many minority groups are widely devalued. They are a "threat" largely because they are different, whether it is being handicapped, poor, illiterate, unemployed, or a different race or religion. Dissidents, by contrast, are a threat because they directly challenge existing systems of power. Giving value to this sort of challenge requires an unusual twist to SRV. It means that an attempt should be made to give a higher status to social action outside official channels. This has actually happened over the past several decades. Passing out leaflets, holding rallies and sitting in front of bulldozers is far more common and accepted today than in the past.

Actually citizen advocacy fits this model in a sense. Service organisations, which officially take care of people, have the prestige associated with formal authority, money, credentials and experience. But when they don't work, advocates are needed, even

though advocates seldom have the status of the organisations that need to be challenged or prodded into action.

SRV also throws some light on tensions within whistleblower organisations. Whistleblowers, to be valued, need to be associated with valued people and roles. A whistleblower organisation is extremely valuable in putting whistleblowers in touch with each other. But who should be invited or allowed to attend? Some members do not welcome certain others. Perhaps they are thought to be criminals, child molesters, cranks or fantasisers. Some people have a personal grievance but would like to have the whistleblower label. Therefore, there will always be tensions in an organisation like Whistleblowers Australia between the goal of maintaining and raising WBA's status (partly by keeping out stigmatised individuals) and the goal of providing support to all who seek it. This tension is heightened when whistleblower organisations offer to support individuals in their cases. Since only some individuals can be supported, due to limited resources, this means that only "worthy" cases will be adopted. Others, especially those who are stigmatised, will be excluded.

SRV has one further insight here. Because of their long experience of wounds, devalued people have a greater vulnerability to further wounding. A child subject to sexual assault may, as an adult, be more sensitive to and distressed by even slight negative comments or actions than others. Similarly, whistleblowers who come under relentless attack often have a heightened sensitivity to later incidents. Something that most people would ignore may be extremely upsetting to a whistleblower. That means that we need to be extremely sensitive, when talking to whistleblowers or holding meetings, to prevent additional wounds and to compensate by offering valued options. For a whistleblower to be excluded or devalued by a whistleblower organisation is an extra level of hurt.

SRV is a theory of what should happen. In many cases, though, the most valued option is impossible due to lack of resources or other constraints. Whistleblowers Australia is subject to these constraints as much as any group. There are far more people seeking support than there are people and resources to provide it. The same can be said, of course, about many institutions.

To return to the idea of citizen advocacy, it is worth thinking about the idea of whistleblower advocacy. It would be nice to have more people who, while they are not whistleblowers themselves, are willing to take up the cause on behalf of individual whistleblowers. This is needed because the official channels are not working, just as citizen advocates are needed because service providers are failing. Whistleblowers Australia already has some members who are, in essence, whistleblower advocates (in some cases they are former whistleblowers), and there are some outside the organisation who fill the same role. Perhaps we should think about formalising and extending this role.

WBA DIALOGUE AND DEBATE

Re the Jan ter Horst Case

A response by Bruce Ilett, one of the parties to the court action

Lionel Stirling's article "The Jan ter Horst Case" from *The Whistle* (December 1997) is based very closely on a "report" written by Mr Ross Annear and circulated widely by Mr ter Horst. The writer was determined to bend his interpretation of events so as to support Mr ter Horst's views in total disregard of the proven facts.

This matter was very thoroughly examined during a five-day court hearing and a further day in the appeal court and I have always resisted Mr ter Horst's desperate attempts to have the matter retried by the media.

Judging from the meaningless waffle in the article about titles and plans and stratum heights the whole business is apparently too complicated for the writer's understanding. The article is inaccurate in many respects:

1. I was not the buyer of the land. The buyers were Ashman Holdings P/L and Family Holdings P/L. I am a director of Ashman Holdings.
2. The house was completed to plate height exactly in accordance with the contract which Mr ter Horst signed. The District Court agreed with this and so did the full bench of the Supreme Court. Three licensed surveyors gave evidence to this effect.
3. The original strata plan to which Mr ter Horst and his mouthpiece, Mr Annear, now attach such importance had been drawn up two years before we came on the scene. It was certainly lodged at the titles office but never approved and never registered. It therefore had no legal import. To quote from the article: "Registered titles are vital for dispute resolution, so they must have the highest status." Quite so, but this was not a registered title. If it had been a registered strata plan we would have been bound, under the Strata Titles Act, to comply with its delineation of the boundaries.
4. My fellow directors and I signed a real estate contract. We did not sign this old strata plan. It was not included in the contract we signed. In any case, the judge found that its terms conflicted with the contractual terms. Mr. ter Horst insisted on compliance with this piece of paper only after the building reached plate height and when he suddenly discovered it nicely suited his purposes.
5. The house was always intended to be a "home" for my family. So what?

The contract did not stipulate the level of the floors. It imposed a restriction on the overall height of the building. Therefore whether or not the ground was "filled" is irrelevant. Judge Charters, the trial judge, understood this perfectly. Apparently neither Mr. ter Horst nor Mr. Annear has the mental capacity to grasp the concept, although it has been pointed out to them.

6. Of course Mr ter Horst's title was not used by us to obtain finance. The title to the land was ours, having paid Mr ter

Horst for it in 1989. The fact that we had to litigate in order to force him to hand over what he had been paid for was entirely due to his inability to understand that other people have rights as well. Once a contract has been signed one cannot change one's mind about it at some later date, especially when the other party has outlaid some \$130,000 on the basis of it.

7. I am deeply insulted by the gratuitous reference to my nationality. I do not see the relevance of it to the matter under discussion. In case anyone is interested, my Australian passport dates from 1982.
8. Quote: "Mr Ilett used Mr ter Horst's electricity while he was starving himself in prison". I am surprised that The Whistle would publish this clearly libellous statement.
9. As to Mr. ter Horst's support, he is no longer supported by (now Senator) Ross Lightfoot probably since I wrote to him in 1995. Barbara Scott MLC represented our side of the matter to the W.A. Constitutional Affairs Committee even though ter Horst had previously made representations to the same committee. Ter Horst's application for legal aid was refused except for a small amount.

During the period 1995-97 windows on our property were broken on seven occasions, a caravan on the site was destroyed by fire and about \$30,000 worth of damage was done to the half completed building whilst litigation was in progress. This damage was not of a casual nature, as might have been done by children, but was more in the nature of sabotage. For instance, a steel picket was driven down all the plastic pipes, fracturing the traps beneath the concrete pad. After Mr ter Horst's signs were removed by order of the court, a window in our house was smashed by a rock that same night and my car was attacked. I do not regret breaking windows in Mr ter Horst's house. My action successfully brought to an end a long campaign of malicious vandalism which threatened to prevent us finding a buyer for the house. All of this was taken into account by the magistrate when he declined to record a conviction against me.

This matter has been thoroughly tried in the courts and a fair outcome was achieved. The outcome was not to Mr ter Horst's liking of course, but life can deal out some hard knocks. A mature person accepts this and carries on with his life. A reasonable person would not conduct "hunger strikes" and public campaigns or erect large signboards blaming and accusing everyone from the Premier down, including the Ombudsman, judges, ministers and council officials. And all for the sake of three courses of bricks.

All of the council officials, judges and professionals involved in this case have behaved in an exemplary manner throughout. There is no conspiracy involved here and nothing for whistle blowers to be concerned about. Just a "silly, obsessed old man" (Richard Utting on ABC Radio 6WF) with nothing else to live for.

To quote Chief Judge Hammond when he released ter Horst from prison: "Mr. Ter Horst, you receive no sympathy from me and any sympathy you have received from others is entirely misplaced"

Whistleblowers' stories

By Feliks Perera

One of our commitments for the future should be to encourage whistleblowers to write their own stories. It would be very interesting to read what corruption and malpractices they came across, how they dealt with these situations, what support they received from their immediate and extended environment, and how they coped with life after whistleblowing.

This is not an easy task, as stories from victims often become clouded by emotional pain and trauma, therefore hiding the real issues. The concept of understanding how our daily lives are guided by the complex issues of semantic, implicit and episodic memory, and to some extent procedural memory, is often not given much thought. How we perceive and interact with the world we live in is quite complex. This may be the reason why whistleblowers have found it very difficult not only to tell their stories, but to sell their stories, and convince the public that something serious and wrong has happened. We see so many headlines of victimisation, and suffering caused to innocent people who just got in the way. I do not think I am alone in believing that we are living at a time when most people are intolerant and unaccepting of the real issues behind many personal tragedies. We may not understand what went wrong, and sometimes lack the skills and knowledge to ascertain this. We are so conditioned, and frequently let down by sensational headlines, which were nothing but headlines only.

The public therefore becomes cynical when they are confronted with real life tragic stories that tell of the corruption in our midst. I want to appeal to all whistleblowers to be cautious when telling their stories. The story should be one that highlights the shortcomings, the lack of accountability, honesty, lack of professional/ethical standards and behaviour, the perpetration of malpractices that are happening in everyday life, because someone forgot to put in the necessary checks and balances. The public is also beginning to realise that there is a tremendous amount of corruption in our society. Many of us, unfortunately, cannot associate or feel the pain and suffering of those who were singled out for punishment because they took a stand against corruption.

Whistleblowers' stories should clearly establish how and where the fundamental rules were breached, what action was taken or not taken to rectify the shortcomings. Then, the subsequent victimisation will clearly stand out as our society's inability and lack of knowledge and skills to deal with such issues. The story should show the big picture, that is it should be properly weighted against all factors interacting with the issue. One's personal feelings, opinions and how the world should turn is of no consequence. No two people will see an issue the same way. Facts must be established, and no judgments made. The public wants to make up their own minds; let us respect this. We are not in the business of canvassing sympathy or support for our feelings. Whistleblowing is not about getting recognition for one's hurt, or validation for one's opinions.

If not for whistleblowers, the massive travel rorts in the federal government would never have surfaced. As this nation gets more entrenched in a I/me-only culture, more and more corruption will be discovered, and we will not know how to deal with these issues. Over the last decade or so, the culture in this country has taught its people that greater acceptance and validation comes from acquiring more wealth and dollars. The means employed to acquire this wealth are of little or no consequence. These patterns of behaviour are not only confined to this generation, but will be passed down to the next generation/s in more increased strengths.

I know that some day through its history, this nation will record its gratitude and thanks to the many whistleblowers who not only laid down their lives but inspired a whole generation to work towards creating a more honest and caring society.

Invitation

The Whistle welcomes contributions dealing with whistleblowing or related topics such as: corruption, bureaucratic struggles, strategies of changing behaviour, law reform and specific areas where whistleblowing is relevant. Some possibilities are: personal reports from or about whistleblowers; reports about group activities; updates on political or legal issues; reviews or summaries of books, articles or meetings; notes on useful skills; commentary on previously published articles; letters commenting on virtually any topic. We are also on the lookout for items from the media, including the internet. Please send your contribution by email or computer disc, if possible. We also welcome volunteers willing to type up articles (on computer).

The Whistle is printed and sent to members and subscribers and published on the World Wide Web
<http://www.uow.edu.au/arts/sts/bmartin/contacts/au.wba/>).

Tentative deadline for the next issue is 15 June. Send contributions to Brian Martin, editor, at PO Box U129, Wollongong Uni NSW 2500; email brian_martin@uow.edu.au; fax 02 4221 3452. If you have queries, ring 02-4221 3763 (work) or 02-4228 7860 (home).