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

The Whistle

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Newsletter of Whistleblowers Australia

Media watch

Qld: Whistleblowers need to stand firm: Cooper

Steve Gray
Australian Associated Press,
29 July 2008

Whistleblowers face anxiety, depression and alcoholism but need to stick by their principles, a business forum in Brisbane has been told.

Cynthia Cooper, who revealed the biggest fraud in US corporate history, told the Queensland University of Technology Business Leaders' Forum today that knowing what you stand for is not enough.

"It's more than that, we need to find our courage," the WorldCom whistleblower said.

"It's not always easy to find our courage.

"There were times when I literally was scared to death, my hands were shaking, my heart was pounding and I had to find a way to push forward in the face of fear."

She said her mother's lessons never to be intimidated and never be bullied had helped her.

Ms Cooper's revelations about $9 billion worth of fraud at the highest levels of WorldCom led to the imprisonment of five senior executives and changes to corporate law across America.

She was named one of *Time* magazine's Persons of the Year in 2002.

"Things begin to happen when you're a whistleblower," Ms Cooper said. "Your life will really change."

She said her career was threatened, rumours of her being a "scorned lover" were circulated and legal action taken as the company attempted to convince her to drop her investigation into fraud at the Fortune 500 company.

To make her task harder, WorldCom was based in her Jackson, Mississippi, hometown and many of the major players were members of the small community.

She said whistleblowers often lost their houses and families were bankrupted, faced alcoholism and depression.

Most were not fired outright but were manoeuvred out of their jobs within 12 months.

"I had a choice to make," she said.

"Either I could let this ruin my life or I could step back and re-evaluate it and move forward in a completely different direction.

"That's exactly what I decided to do, but it was the most difficult thing I'd ever been through in my lifetime."

A fail-safe way to embarrass people in high places

Whistle-blowers can tell all without being traced, thanks to websites that anonymise their details

Paul Marks
New Scientist, volume 198,
10 May 2008, pp. 28-29

JUST how accurate are GPS-guided precision bombs, and what is most likely to send them off-target? Now you can find out by simply reading the smart bomb's tactical manual on the internet. No, the Pentagon didn't slip up and post the instructions online. Rather, a whistle-blower leaked the manual via Wikileaks, a website that uses anonymising technology to disguise the source of leaked information.

Launched online in early 2007, Wikileaks is run by an informal group of open government and anti-secrecy advocates who want to allow people living under oppressive regimes, or with something to say in the public interest, to anonymously leak documents that have been censored or are of ethical, political or diplomatic significance.

Wikileaks' fame has spread rapidly in recent weeks, thanks to the release of some headline-grabbing documents. These include the design for the Hiroshima atomic bomb, a report on how the UK acquired its nuclear weapons capability, and hundreds of camera phone pictures of the Tibetan riots.

In the last fortnight alone it has released 50 documents and it is now hosting more leaks than its global network of volunteer editors appear able to check.

Thanks to Wikileaks, potential whistle-blowers are now far more willing to come forward, says John Young, who runs the long-standing site Cryptome.org, which specialises in posting documents on espionage, intelligence and cryptography issues. "We started getting a lot less information after 9/11 as people became more cautious when law enforcement agencies got more draconian powers. So we are very happy to see Wikileaks doing what they are doing so aggressively."

This flood of leaked documents has been made possible by internet technology that allows whistle-blowers to post documents online without revealing their identity or IP address. The website uses a network called The Onion Router (Tor), to disguise the origin of documents. Tor routes documents sent to the Wikileaks website into a cloud of hundreds of servers, where they bounce randomly between a handful of them, before finally landing in one of Wikileaks' inboxes (see "The onion will cover your tracks," next page).

To track where a leaked document, picture or video came from would take the computing power of the US National Security Agency. And it would have to be trained on the right servers at the right time, making it virtually impossible to succeed.

Ironically, given the number of military documents that are leaked to Wikileaks and other whistle-blowing websites, the Tor network was originally developed by the US Naval

Research Laboratory, based in Washington DC, before becoming an open source project anybody can use. But this does not mean the military has a back door into the system, says Wikileaks spokesman Julian Assange. "Like the internet, Tor is out of the hands of those that were once involved in crafting it," he says.

The onion will cover your tracks

No spy movie is complete without an agent trying to shake off the villain on their tail by taking random twists and turns down back alleys and side streets. The Onion Router (Tor) does the same thing with your digital files, and then erases your "footprints".

A Tor network comprises thousands of volunteer users who turn their computers into "onion proxy" servers by downloading client software from the Tor website. Then, when you want to send a message, Tor encrypts it three times in onion-like layers and forwards a key to each layer to three proxy servers, chosen at random, in the network.

When the message arrives at the first server, its outer layer is decrypted and so on. By the time the completely decrypted message pops out of the third server, it appears to have originated at this server, disguising its true source. "Imagine a large room jammed full of people in which many of them are passing around envelopes," says computer security expert Bruce Schneier. "How would you know where any of them started?"

However, Tor is not completely secure. Steven J. Murdoch and colleagues at the University of Cambridge have shown that it is possible to identify some onion proxies. Although that would not reveal your secret message, it would reveal who is using Tor.

Wikileaks itself is actually much more than a single website. Wikileaks.org has mirror sites hosted in a number of countries, including Belgium, Sweden, Australia, Christmas Island and California. This means that if someone tries to take legal action against Wikileaks in one country — by taking down the wikileaks.org website for example, as a Swiss bank tried and failed to do earlier this year — it cannot take down the entire service. Also, Sweden and Belgium in particular have very strong anti-censorship legislation, making Wikileaks a resilient beast.

Once a document has been submitted to the website, and before it can be published, editors check it for veracity and assure themselves that it is of compelling public interest. "Anonymous leaking is an ancient art and many websites publish documents from sources they cannot identify," says Steven Aftergood of the Federation of American Scientists' (FAS) Project on Government Secrecy. "What Wikileaks has done is to professionalise the operation. They have created a standard procedure for receiving, processing and publishing leaks."

In 2007, for example, Wikileaks revealed massive corruption in the Kenyan government and made the startling discovery that agents of the Stasi, the former East German secret police, had become members of the commission investigating Stasi crimes. It also leaked a Pentagon handbook revealing that psychological torture was used against prisoners at the US's Camp Delta in Guantanamo Bay.

So how do Wikileaks' editors decide which leaks to post? Unlike print editors, Wikileaks' editors do not reject leaked documents just because they are unlikely to have widespread appeal. The only rule is that leaks must be in the public interest, says Assange. And there are few frivolous leaks, he says. "Our sources, perhaps inspired by examples already set, nearly always send in genuine public interest material. Wikileaks pushes submissions through a number of questions and only the well-motivated leaks get through."

One example is the manual for the Joint Direct Attack Munition (JDAM), or smart bomb, available on the Wikileaks site. The leaked document from 2002 reveals that while the bomb, which has since been upgraded, had an accuracy of 2.8 metres in flight tests, this dropped to 7.8 metres in actual combat, thanks to guidance errors, failure to specify target coordinates accurately, and inaccuracies in the GPS systems.

"JDAM is the most strategically significant US military development in the past twenty years," says Assange. It costs from $20,000 to $40,000 and bolts onto existing 500 to 2000-pound bombs, turning them into individually targeted gliders that are accurate to within 3 metres. Eighty JDAMs can level all the critical infrastructure of a medium-sized city in one B2 bomber flight, says Assange. "This means that posting the manual clearly fits our editorial policy that the material be of political, diplomatic or ethical significance."

Despite the success of Wikileaks in bringing such documents out into the open, potential whistle-blowers should remain on their guard when posting documents to any leak site, says Young. Some are in fact run by intelligence agencies hoping to catch whistle-blowers in the act, he says.

"There are lots of dirty tricks out there. We always caution against trusting our site or anybody else's because there are so many 'sting' sites out there," he adds.

Meanwhile, some anti-secrecy advocates in the US criticise Wikileaks' editorial policy for being too open, as the website does not censor sensitive military documents, including potentially dangerous details on bombs.

Assange says there are no documents Wikileaks would not post on the grounds of military sensitivity. "It would be quite incorrect for us to express any national favouritism," he says.

That greatly troubles Aftergood, who also leaks documents through his FAS newsletter *Secrecy News* and the FAS website. "They are essentially an outlaw operation — operating literally outside the framework of the law — and they have shown no willingness to refrain from publication of sensitive military technology."

This could make the website a threat to security, Aftergood says. "It's troubling that Wikileaks is beyond accountability to anyone. The better they are at what they do the more pressing it becomes that there is some kind of accountability. Otherwise Wikileaks itself could become a threat."

First things first, says Assange. "When governments stop torturing and killing people, and when corporations stop abusing the legal system, then perhaps it will be time to ask if free speech activists are accountable."

Net crusaders shine torch in murky places

Asher Moses
The Age, 9 July 2008

An Australian living in East Africa has brought new meaning to the phrase "keeping the bastards honest."

In the past year-and-a-half, Julian Assange and his band of online dissidents have helped swing the Kenyan presidential election, embarrassed the US Government and sparked international scandal.

His site, Wikileaks, provides a safe haven for whistleblowers to anonymously upload confidential documents and, after 18 months of operation, Assange says no source has ever been exposed and no document — now more than 1.2 million and counting — has ever been censored or removed.

Now the site is expanding its focus on despotic regimes and shady corporate dealings to include religion and even the cult of celebrity.

Recently published documents include an early version of the movie script for *Indiana Jones and the Kingdom of the Crystal Skull,* Wesley Snipes's tax bill and documents from the Church of Scientology and the Church of Jesus Christ of Latter Day Saints.

"In every negotiation, in every planning meeting and in every workplace dispute a perception is slowly building that the public interest may have a number of silent advocates in the room," Mr Assange said in an email interview.

Last August *The Guardian* ran a front-page report about widespread corruption by the family of the former Kenyan leader Daniel Arap Moi, including evidence Mr Moi siphoned off billions in government money. The report said it was based on a document obtained from Wikileaks.

Mr Assange says the revelation changed the result of the Kenyan presidential election, swinging the vote by 10 per cent towards the opposition, which won the election by 1-3 per cent of the vote.

Other previously confidential documents published by Wikileaks include the US rules of engagement for Iraq and the operations manual for the running of the US prison at Guantanamo Bay, which revealed it was US policy to hide some prisoners from the International Red Cross and use dogs to intimidate inmates. The documents were reported on in papers including *The New York Times* and *The Washington Post.*

Mr Assange, who grew up in Australia but moved to East Africa two years ago and now splits his time between Kenya and Tanzania, has worked as a security consultant, professional hacker, activist and researcher.

As well as Mr Assange, Wikileaks's nine-member "advisory board" includes another Australian, the broadcaster, film producer and writer Phillip Adams.

Mr Assange said more than 100 Australian PhD candidates, journalists and other volunteers worked on Wikileaks. "Australians seem to be unusually drawn to the project, perhaps as a result of an absolutely disgraceful preoccupation with abusing the Federal Police to hunt down journalists' sources — a backwardness that has not stopped with Rudd," he said.

But so far Wikileaks had received few documents exposing Australian governments and companies.

"Hero" nurses are still out in the cold

Four women who blew the whistle on abuse at the LGH's Ward 1E are still struggling for compensation. A group of courageous nurses has been let down at every turn.

Alison Andrews reports
Sunday Examiner, 15 June 2008, p. 6

FORMER Tasmanian Health Minister David Llewellyn called them heroes.

Mr Llewellyn was so moved by the courage of the nurses who became known as the Ward 1E whistleblowers that he wept as he told the State Government their story.

He stood in Parliament, on April 14, 2005, and talked publicly for the first time of the sexual abuse of women patients on Ward 1E and the bullying and harassment of the nurses who reported it.

His speech prompted a standing ovation for the nurses' bravery.

Hansard transcripts of the parliamentary session record that Mr Llewellyn also spoke of what he expected to happen to the whistleblowers.

"I understand these nurses have claims against the (Health) department and I have instructed the department to settle these claims," he said.

Three years later, it's difficult to connect the actual experience of the four women whistleblowers with Mr Llewellyn's reaction, tears rolling down his face, as he talked of their fortitude and the difficulties that they had already faced.

Three of the four women met for the first time last week since the experience which changed all their lives, to take stock.

Jo Ottaway and Leila Rossiter were the two nurse whistleblowers who first broke the story of conditions at Northern Tasmania's acute care mental health unit alongside the Launceston General Hospital by going to the State Health Ombudsman with their concerns when they were unable to get department managers to listen or take action.

They have since become publicly known but our first meeting was incognito at a Devonport cafe more than a year before Mr Llewellyn's tearful report to Parliament because the two women at that stage feared retribution for themselves and their families if they were publicly identified.

The women were already at the end of their tether after more than 12 months of trying to make people stop and listen and do something about a mental health service that was later independently proved to be rife with bullying, sexual abuse, harassment and intimidation.

"We met with you back then because we were trying to find someone who could look into it (Ward 1E). We wanted someone independent to find out what had happened to these people," said Ms Rossiter.

If the women and the two more whistleblowers still to make their move knew then what they know now, they would probably have cancelled the coffee date, packed up their families and moved interstate.

Gwynneth Williams, identified now for the first time as the third

whistleblower, was a senior psychiatric nurse who decided to stay put when Ms Rossiter, Ms Ottaway and a fourth woman still too frightened to be named, took leave.

They had been labelled trouble makers by their peers and the workplace had become unbearable.

Ms Williams says that she stayed to try to help repair the damage that had been done when the other three were forced out by bullying and harassment.

"I stayed because I believed Mr Llewellyn and the system would protect me from harm," she said.

Instead all four skilled mental health nurses have been badly damaged by their six-year battle because they feel that they have been treated like criminals instead of the people and practices they doggedly persisted in revealing.

Ms Williams finally left the workplace two years later, exhausted.

She took extended leave and then workers compensation as her health collapsed when she too became the subject of bullying and harassment by her superiors against whom she had given evidence.

It took another two years for full workers compensation to be paid.

All the women say that they have considered suicide to end the hurt to their families and themselves during the years of negotiations with the State Government for compensation for loss of earnings.

They have felt helpless as their families struggled to the point of bankruptcy and those identified as the perpetrators were reinstated.

Ms Rossiter was the first to give up and accept a small payout from the State Government for loss of earnings when she was forced to leave untenable work conditions.

"I'd had enough; I just wanted it over," Ms Rossiter said.

She was nursing her terminally ill son, Joel, who died in early 2005 before the compensation payment came through.

"I thought that when the compo came through that at least it would be over but it's never over," said the 52-year-old.

"I'll never get back what I lost."

In 2008, Ms Rossiter has returned to nursing — not in mental health.

"I've been nursing since I was 16; I've never wanted to do anything else," she said.

"But I keep out of the way. I'm on permanent night shift so that I'm away from all the trouble."

She believes that the strain of the treatment by her former employers hastened her son's death.

Ms Ottaway succumbed again to the illness of which she had been cleared when she first started at Ward 1E and hasn't worked since she left the mental health unit.

ASIC rejects whistleblower's bid

Anthony Klan
The Australian,
15 September 2008, pp. 27-28

DENISE Brailey's resume is littered with examples of victories she has claimed in her long-running battle against financial fraud and corporate catastrophe.

Ms Brailey, of Perth, has been the catalyst behind several government inquiries, was the whistleblower behind the West Australian solicitors' mortgage brokers scandal and warned of the collapses of Westpoint, Fincorp and others years before they toppled.

She has repeatedly drawn the attention of corporate regulator the Australian Securities and Investments Commission to holes in consumer protection laws and approaching financial catastrophes.

But she was bitterly disappointed this month to learn her application for a job as an ASIC investigator, with a modest salary of $70,000 a year, had been rejected.

Her application had not even progressed far enough for ASIC's recruiters to call her referees.

"I've opened ASIC's eyes to numerous approaching financial disasters over many years and I would bring an enormous amount of experience to their investigative teams," Ms Brailey said.

"I've studied the business and finance sector for the past 10 years to the point where many members of the media consult with me on a wide range of issues because of my knowledge.

"ASIC is saying that knowledge is irrelevant."

Denise Brailey

Despite Ms Brailey giving ASIC the authority to speak about her application, the corporate regulator has refused to comment on its decision.

"I am not in a position to confirm whether she has applied and certainly wouldn't be making any comment in relation to any application," ASIC spokeswoman Angela Friend said.

Ms Brailey's referees (Hugh McLernon, executive director of litigation funding giant IMF, and Doug Solomon, prominent Perth lawyer of Solomon Lawyers) said they were disappointed with ASIC's decision.

Mr Solomon represented many of the victims of the West Australian mortgage brokers scandal, often without pay.

"Denise would have made an excellent candidate as a very thorough investigator," he said.

"My experience in working with Denise is that she will get in there and fight, which is surely what ASIC must be looking for.

"She led the campaign against property spruikers such as Henry Kaye, she blew the whistle on the mortgage-broking issues and has done a huge amount of work in the interests of consumers in various types of property-related investments."

Mr McLernon also was disappointed with ASIC's decision.

Ms Brailey once worked at IMF as a special projects manager in seeking compensation for 3000 victims of the mortgage broking scandal.

"It's a pity she didn't get the job," McLernon says.

"She would have given them a real shake up."

The potential for that shake up may have been what weighed the scales against Ms Brailey.

She has been a vocal critic of ASIC's shortcomings over many years, her calls contributing to major changes such as the overhaul of reporting requirements of the $8 billion debenture and $42 billion mortgage fund industries.

"Denise would have been a very good person for ASIC to have — she has an ability to turn over stones that not everybody wants to see turned over," Mr Solomon said.

"Perhaps there is some concern within ASIC she may turn over some stones somebody doesn't want to see turned over."

Ms Brailey had worked as a real estate agent in Perth in the 1990s but resigned to establish the Real Estate Consumer Association (which initially operated from her apartment) in response to the huge numbers of people she saw being ripped off by the property industry.

RECA worked to expose property spruikers and served as a focal point for investors from across the country who had been burned by shonky operators.

Ms Brailey said, in that time, she had close discussions with many ASIC officials, such as former deputy chairman Jeremy Cooper and former head of enforcement Jan Redfern.

"Over many years I have been consulted by people at the highest levels of the commission concerning a range of issues," she said.

In 2005, she provided ASIC with a list of 12 investment companies that had raised billions of dollars from "mum and dad" investors and which she believed were in serious danger of collapse. She dubbed them the "dirty dozen."

Companies on that list included Fincorp, Westpoint, Australian Capital Reserve and Bridgecorp, all of which have subsequently collapsed owing investors hundreds of millions of dollars.

Only in the wake of all those collapses has ASIC moved to overhaul disclosure rules in that sector.

Ms Brailey said many of those investors to approach her at RECA had earlier voiced their concerns with ASIC and were angered by what they saw to be a lack of interest from the corporate regulator.

"So many of the people that came to me are just furious at ASIC," Ms Brailey said.

"They see ASIC as just not giving a stuff about their plight and their files being put on a shelf somewhere to rot."

She said RECA was an organisation consistently underfunded, receiving operating funds from membership fees paid by the financial victims themselves.

That lack of funding eventually led to to RECA being disbanded in December 2005 and no organisation has replaced it.

Ms Brailey said that although she is able to help some of those aggrieved investors who continue to contact her, the support she can provide is limited because she is forced to work in other areas and has limited time available.

Because no organisation has taken the place of RECA, burned investors, such as those caught in the Westpoint and Fincorp collapses, have formed "action groups" in a bid to rally awareness of their plight and push for what they see as justice.

But a lack of financial experience held by people running those groups has meant they have been far less effectual than RECA was in assisting investors or bringing about change to the way the financial services system is regulated.

Launch of *Whistling While They Work*

Senator John Faulkner,
Special Minister of State
9 September 2008

I would like to acknowledge the Ngunnawal people and their ancestors as the traditional owners of the land on which we are meeting today.

Distinguished guests, ladies and gentlemen, we are trained from the schoolyard to deplore a dobber. For a child, loyalty to a playmate in the face of authority is a simple virtue. But when we leave the schoolyard and enter into the adult world, our responsibilities also become adult. Loyalty to our colleagues or employers is an admirable virtue. But blind loyalty is a weakness. We also realise that loyalty means many things. Loyalty to a colleague, or immediate supervisor, or even to one's own self-interest, should not overtake loyalty to the long-term interests of an organisation, or to the wider public.

John Faulkner

For some Australians, there comes a time in their life when they become aware that a colleague, an employee, an *employer,* is doing something wrong — perhaps bullying or harassing others in the workplace, perhaps misusing resources or misappropriating funds, perhaps concealing important information because it would have a negative impact on the organisation. In this situation, some people will decide to keep their heads down, turn a blind eye, not get involved.

But some courageous individuals will take a stand. They will report what they have seen. They will — often at personal risk and to personal cost — "blow the whistle."

Hollywood has made heroes of some whistleblowers. Karen Silkwood and Jeffrey Wigand were immortalised on celluloid by Meryl Streep and Russell Crowe. Their disclosures — and the price they paid — were on a larger scale than those of many whistleblowers, but as the report we are here today to launch documents, the decision to stand up and say 'enough' is rarely easy and too often carries heavy costs.

And that is hardly fair. We depend very much on whistleblowers to alert us to misconduct and malfeasance. People *inside* organisations are often the ones in a position to be the first to know something is wrong, and their actions in raising the alarm can stop a problem before it becomes a crisis. They should not have to risk their careers, their mental and physical health, in extreme cases — such as

Karen Silkwood's — their life, just to do the right thing.

Ladies and Gentlemen, it is my pleasure today to launch the book *Whistleblowing in the Australian Public Sector,* the first report of the Australian Research Council Linkage Project "Whistling While They Work." This book is the outcome of a three year extensive national research project, led by AJ Brown and his team from Griffith University, on the management and protection of internal witnesses, which includes whistle-blowers, in the Australian public sector. It represents, I think it is fair to say, the most substantial research in this area in Australia to date.

The research project has been jointly funded by:

• the Australian Research Council;

• the five participating universities; and

• 14 industry partners, including integrity agencies, such as the Commonwealth Ombudsman, and public sector management agencies from six Australian governments.

The project's major research involved a survey of over 7,600 public officials from 118 public agencies in the Commonwealth, Queensland, New South Wales and Western Australian public sectors.

Some of the research is ongoing — examining differing organisational experiences under the various public interest disclosure regimes, comparing, identifying and promoting current best practice.

As the report notes, much of the research data contains "broad positive messages" about how good processes are working, while at the same time identifying areas where improvement is required. The report will help to inform the Government's consideration of changes to our public interest disclosure system, providing very useful input as we work out the best way forward. The report has been prepared from outside government looking in, and speaking from the inside looking out, the government will have to look carefully at the report to decide what we should act on and how.

At the Australian Government level, the current protected public interest disclosure provisions cover those staff within the Australian Public Service who are employed under the *Public Service Act* 1999 (Public Service Act).

Existing provisions provide protection from victimisation and discrimination for APS employees who allege that other APS employees have breached the APS Code of Conduct.

As you are all no doubt aware, many commentators have argued that these current provisions are too narrow. Too narrow in relation to the categories of people who can make protected disclosures and the types of disclosures protected, too narrow in as far as the extent of protection afforded to whistleblowers is concerned, and too narrow when it comes to the persons to whom disclosures may be made.

For example, in terms of the categories of people who can make disclosures, less than three-quarters of what most people would commonly describe as Australian Government employees are protected by these provisions. And, consequently, there is an argument that any new or reformed scheme should expand that protection to include other categories of Australian Government employees — such as people currently or previously engaged under the *Members of Parliament (Staff) Act* 1984. In an era in which many people are engaged by the Commonwealth not as employees but as contractors and consultants, there is also an argument that those protections should be extended to cover such persons.

A particularly contentious issue is whether disclosures should continue to be protected public interest disclosures if they are made to third parties, including the media — and in what circumstances (if any) disclosures to third parties should be justified, protected and permitted.

These are difficult, complex and challenging issues, and I commend the authors of the *Whistleblowing in the Australian Public Sector* report for the clear, systematic and thoughtful manner in which they have dealt with them.

Ladies and gentlemen, accountability is a fundamental underpinning of democracy. And we cannot have accountability without appropriate transparency. Public interest disclosure protections are an important part of transparency and accountability, which are in turn critical to both effective and responsible public administration. Good policies to protect those who make public interest disclosures, and to make sure that the issues they raise are dealt with appropriately, support public accountability and good government.

The Government is committed to broadening and strengthening public interest disclosure measures through a pro-disclosure system across the Australian Government sector so that proper reporting and investigation systems are put in place to deal with allegations of corruption and misconduct and to provide best-practice legislation to encourage and protect disclosure within government.

As noted in the report, it is well recognised that integrity in government depends on a range of "integrity systems" for keeping both institutions and their officeholders honest and accountable. The Government's commitment to strengthening public interest disclosure measures fits squarely within the Government's integrity agenda and complements the many reforms the Government has already made in this area. Those reforms include:

• introducing a Ministerial Staff Code of Conduct;

• introducing a Lobbying Code of Conduct;

• ensuring that government advertising can no longer be used for partisan political advantage;

• ensuring the advantages of incumbency are not abused;

• introducing transparent and merit-based assessment in the selection of most APS agency heads;

• introducing electoral reform legislation to ensure Australian voters know who is donating to whom — and how much; and

• ensuring much greater access to government documents through the most significant overhaul of the FOI Act since its inception in 1982.

As you are all aware, at the Government's request, the House of Representatives Standing Committee on Legal and Constitutional Affairs is conducting an inquiry into whistle-blowing protections within the Australian Government sector. This

inquiry is the first step in delivering on the Government's election commitment to provide enhanced legislation to more effectively protect public interest disclosures within the Australian Government public sector. The Government takes the work of this Committee very seriously, and has asked the Committee to develop a preferred model to protect whistleblowers in the public sector.

We have asked the Committee to look at this issue in depth, reviewing the key issues relating to public interest disclosures and consulting widely with interested people and organisations.

I am sure the findings of the research contained within this report will be a valuable resource for the Committee's considerations. I also understand that the Committee members will participate in a round table discussion with the authors of the report this afternoon. I welcome this collaboration.

The Committee will report back to Parliament by 28 February 2009. The Government will consider the Committee's recommendations with the aim of developing legislation during the course of 2009.

So without further ado, let me congratulate A J Brown and the entire team who have produced this timely report, and declare "Whistling While They Work," *Whistleblowing in the Australian Public Sector,* formally launched.

Protecting the truth

A new report is helping the Rudd Government shape laws to save whistleblowers from persecution, writes **Chris Merritt**

The Australian,
10 September 2008, p. 13

WHEN Allan Kessing endorsed the latest plan to protect public service whistleblowers, he was almost uninterested. Even if the federal Government gives immediate legislative form to the scheme that was unveiled yesterday, it will be too late to save this former Customs officer.

Allan Kessing

Kessing has already felt the full force of what the government of Australia can do to public servants who reveal ineptitude and maladministration. He has been investigated repeatedly by the Australian Federal Police, dragged into court and left with a criminal record and crippling legal bills, all for alerting the community to lax airport security.

And his ordeal continues. Kessing is still clocking up legal bills in an attempt to overturn his conviction for leaking documents to this newspaper in 2005.

At last count, he was expecting the appeal to cost $40,000 to $50,000. And he is still carrying a debt of $12,500 from his trial, despite a public appeal among journalists that helped defray $40,000 in legal costs.

"Basically, my entire super is gone," Kessing says.

A new law from a new Government may protect others but it will do nothing for Kessing, who is bitter about how he has been treated. "I have been made a scapegoat by a praetorian guard that was more interested in protecting the rat king than the citizenry," hesays.

In Kessing's view, the "praetorian guard" is the Australian Federal Police. "As we saw in the (Mohamed) Haneef thing, it's a purely political body and it has been used in the most outrageous political manner," he says.

To many, Kessing's bitterness is understandable. Even if he did what he is alleged to have done — which he denies — some would say he deserves a commendation, not a criminal record.

When the documents at the heart of the affair remained inside the Customs bureaucracy, nothing was done to address lax security. Once they were published in The Australian, the former government spent $200 million trying to fix the problem. It also unleashed the AFP on Kessing.

The affair was one of the factors that persuaded Labor to include whistleblower protection in its policy for the last year's federal election.

That policy was explicit: "Where a person has exhausted all legitimate mechanisms and avenues of complaint, and still finds that through the force of extreme circumstances they are obliged to disclose information to third parties such as journalists, protection by a court may still be provided dependent upon the circumstances."

The impact of this policy extends beyond the public service. If public servants are protected from criminal charges when they provide material to the media, journalists would also benefit. They would be far less likely to be roped into court cases and asked to reveal their sources in the public service.

Media lawyers say the indirect effect of a new whistleblower law could be to do more to keep journalists out of court than the previous government's shield law for journalists, which is widely seen as ineffective.

But the question of whether Labor's promised law will in fact protect public disclosures to the media will depend on how Labor fills in the gaps in its policy. And there are plenty of those.

Does the policy's use of the word legitimate, for example, open the way for public servants to go to the media in certain circumstances before exhausting all internal appeal mechanisms? What are the limits on the type of concerns that whistleblowers will be permitted to raise with the media?

And what happens to those whistleblowers who go to the media with concerns that they cannot prove or that later are found to be factually incorrect?

The plan unveiled yesterday by Special Minister of State John Faulkner seeks to answer those questions. It has been drawn up by a team of academics led by A.J. Brown of Griffith University and is part of a three-year project backed by the Australian Research Council. It is contained in a report called Whistleblowing in the Australian Public

Sector and it is already clear it will influence the type of legislation that is eventually introduced by Faulkner.

AJ Brown

A more important influence will be Labor's Mark Dreyfus QC, who is running a separate inquiry into whistleblower laws for the legal and constitutional affairs committee of the House of Representatives. The Dreyfus committee has been asked to prepare a preferred model whistleblower law. But Dreyfus is also aware of what Brown has been doing.

The Brown report has been unveiled midway through that committee's public hearings, a fact Dreyfus described as "very, very convenient."

What Brown has proposed is a three-stage system aimed at giving government agencies a strong incentive to address internal complaints about misconduct. If the scheme is implemented, agencies that ignore complaints by public servants about misconduct risk intervention by a powerful outside agency.

That agency, which might be the Commonwealth Ombudsman, would be vested with extra powers and would need to be notified of all internal public interest disclosures by public servants. It would have the power to manage how an agency investigated each disclosure and could even take over the investigation. And if complaints remained unaddressed, public servants who took their concerns to the media would be protected from legal liability.

But the scheme would not cover every complaint, only those that raised allegations of wrongdoing that were against the public interest. The sort of wrongdoing that could safely be disclosed to the media includes crime, corruption, abuse of power, breach of trust, conflict of interest, official misconduct, negligence, incompetence, financial waste and anything that poses a risk to public health, safety or the environment.

In at least one area, Brown's proposal is even more protective of public servants than Labor's pre-election policy. Brown is not persuaded there is a need to ensure disclosures to the media are substantially true before they would gain the benefit of his scheme. Labor's policy required whistleblowers to first go through internal channels. It then would protect public servants whose accusations were eventually vindicated.

Brown agrees whistleblowers should first try to have their concerns dealt with in-house. But he believes the second leg of Labor's test, which requires the disclosures to be true, is too restrictive. "Proving that an allegation of wrongdoing was 'substantially true' may also be a difficult challenge, particularly if the whistleblower has to satisfy a court or tribunal of this matter when seeking compensation or resisting criminal prosecution or civil action," the report says.

Instead, the report proposes that whistleblowers should be protected if their disclosures are true or if they held an honest and reasonable belief that their disclosures revealed wrongdoing.

Even before the Brown report was made public, some senior public servants had been worried about the prospect of a law that would protect whistleblowers who went to the media. The Attorney-General's Department and the Australian Commission on Law Enforcement Integrity even told the Dreyfus committee they preferred a system in which public servants would not be protected if they went to the media.

On the other side of the debate, media lawyers and the journalists union are pushing for Faulkner to adhere to Labor's pre-election promise and — in some areas — to go even further.

Media, Entertainment and Arts Alliance federal secretary Christopher Warren says Brown's proposals appear to be a step forward. "This is the first time there has actually been any recognition that whistleblowers have any rights," Warren says.

But he says there will be risks involved in requiring public servants to exhaust internal complaint-handling mechanisms before contacting the media.

"Most people who contact the media have already made a judgment that there is no point going internally," Warren says. "Most whistleblowers who come to the media would have preferred to have their concerns dealt with internally."

Faulkner, while launching the Brown report yesterday, skated over the issue of whether Labor intended to protect disclosures to the media.

"A particularly contentious issue is whether disclosures should continue to be protected public interest disclosures if they are made to third parties, including the media, and in what circumstances (if any) disclosures should be justified, protected and permitted," Faulkner says. "These are difficult, complex and challenging issues."

Brown, however, is not so reticent. He says his scheme has been designed to ensure that government agencies are encouraged to deal internally with complaints about misconduct.

The incentive to drive that outcome is legal protection for public disclosures to the media, Brown says.

In practice, the proposed system would mean that the Commonwealth Crimes Act would continue to criminalise disclosures to the media that fall outside the definition of public interest disclosures. But the Crimes Act prohibition would not apply to public interest disclosures to the media.

"A lot of government agencies, even at a commonwealth level, should already have systems in place for looking after their whistleblowers, and they don't," Brown says.

"So the question is, what are the big drivers that will help make sure that happens? It's the risk of the public whistleblowing that helps create the

driver for making organisations do it properly. You have to have that public whistleblowing recognised in order to have internal whistleblowing dealt with more constructively. At the moment, an organisation can sit back and say: 'We are going to sweep this under the carpet'."

Brown believes public service managers are aware that complaints about misconduct can not be made public by public servants unless they are prepared to risk being prosecuted.

Media lawyer Peter Bartlett told the Dreyfus committee of another reason there should be no requirement to exhaust internal complaint-handling systems before going to the media. He pointed out that several deaths and problems with medical procedures at Bundaberg Hospital had been the subject of internal complaint-handling for two years before they became public.

"If they had been made public earlier, then things could have been a lot different for a lot of people," Bartlett says.

All this is much too late for Kessing.

But if Labor adopts the broad structure of the Brown report, Kessing may well be the last public servant to be punished, rather than lionised, for revealing serious flaws in public administration.

Chris Merritt is *The Australian*'s legal affairs editor.

DOJ leaves whistleblowers hanging

Frank Rogers
Citizenvox.org: speaking out for the public interest, 3 July 2008

An article in the *Washington Post* on Wednesday reported that more than 900 whistleblower cases have built up over the past 10 years at the Justice Department. The commercial litigation branch of the department's civil division blames the backlog on their being understaffed. Many of the cases involve the privatization of government services, government contractors supplying goods and services to the U.S. military, and Medicare and Medicaid payments to pharmaceutical companies.

The article reveals that often whistleblowers must wait 14 months or more to even find out if the department will accept their cases. Then, if it does take on a case, the department will likely take years to investigate and decide if the whistleblower's claim has merit. Out of 24 cases involving contractors defrauding the U.S. military during wartime, the Department of Justice has awarded settlements to whistleblowers in only five of them. That's one court settlement per year that the U.S. has been at war. The Department of Justice should be doing more to deter what Rep. Henry Waxman told the BBC is perhaps the "largest war profiteering in history."

In the *Post* article, whistleblower lawyers note that the difficulties associated with investigating claims in combat-ravaged zones, and the classified nature of certain military equipment, complicate Department of Justice investigations and set back proceedings indefinitely.

However, one cannot help but wonder if there are political motivations behind the Justice department lawyers taking so long to investigate these cases. True, these whistleblowers are making bold claims pertaining to very politically volatile issues, such as the war in the Middle East. Nevertheless, when whistleblowers decide to risk their jobs to expose their companies' corrupt business practices, these patriots deserve better than to be forced to sit idly by and wait a decade or more for results.

The *Post* article relates one whistleblower case in which the plaintiff was awarded a settlement after 12 or so years. The case is likely to be tried in appeals court. However, during the time that the case was being investigated, many witnesses' memories about the defendants' corrupt acts faded, and a federal agency threw away its files on the case. When cases take 12 years to be investigated, and plaintiffs' arguments in court are compromised as a result, both whistleblowers and their counsels are deterred from filing complaints in the first place. The Department of Justice needs to handle whistleblowers' cases more quickly and efficiently, or dishonest government contractors triumph, and both the federal government and taxpayers lose out.

Marks and Spencer sacks whistleblower

Mark Milner
The Guardian, 4 September 2008

Marks & Spencer has dismissed the "whistleblower" who leaked details of its plans to reduce redundancy pay.

The employee, a manager at its Paddington head office, was suspended last month and appeared before a three-hour disciplinary hearing on Monday.

Yesterday M&S confirmed the employee had been dismissed. "It was not an easy decision nor one that was taken lightly," said a spokeswoman. "He broke the company's rules and regulations and deliberately leaked internal company information and made derogatory and speculative comments to the media despite the fact we have a number of internal routes available to address employee concerns."

She said M&S did not accept he was a whistleblower because there had not been any wrongdoing by the company.

Maria Ludkin, legal officer for the GMB union, who represented the suspended worker, described the decision to sack him as a "gross act of corporate bullying."

She added: "The disappointing part is that M&S head of global HR John Wareham stated that the 25-year-long service of this employee is totally irrelevant to the decision to sack him. M&S have shown that they are more concerned about maintaining a repressive regime for their staff than about promoting open discussion about the direction of the company and the way that the staff are treated.

"GMB will be appealing against this decision in the internal procedures and will launch a public campaign to secure justice for this M&S worker."

The union said the man had been told he would receive only eight days' holiday pay — £1,200 — despite 25 years' service.

Disruptive physicians

John Wright

In *The Whistle*, #46, May 2006, I wrote about the destructive procedure of "sham peer review" [SPR] as it applies to doctors in hospital practice, but it is not confined to medicine. Essentially, that American term describes the enlistment of individuals, who purport to be peers, to form *ad hoc* "bad faith" panels to sit in judgement on, and find against the critics of administrations. Their ultimate objective is to censor, at any cost, a "disruptive physician" [DP] — meaning a whistleblower. The panels of "enquiry" constitute cabals that serve the purposes of an employing institution and receive favourable consideration from their employers. Their value is in shielding bureaucracies from accusations of dangerous practices.

When the Association of American Physicians and Surgeons [AAPS] was established to investigate these devices and the "Semmelweis Society" became active, it became obvious that there were remarkably stereotyped techniques employed in neutralising troublesome doctors. It was as if somebody was teaching hospital administrators how to do it. In fact, the AAPS discovered that legal seminars regularly offered tuition and advice to those administrators in the US. The advent of this phoney empanelling process occurred at about the same time that all administrations globally embraced the concept of "human resources" instead of personnel.

On 16 May 2008, a distinguished medical journal received a letter from a young US surgeon, seeking information about the term "disruptive physician" which had recently been attached to him. By early July, some 750 letters had been received from various sources. Most respondents chose anonymity. They consisted of victims and potential victims, witnesses, lawyers, administrators and even some who had been SPR panellists. Several psychiatrists loftily discussed the psychology of whistle blowers, their naivety, lack of sophistication in the ways of the world and, for a small group, propensity to self-destruct. It was generally agreed that there was an urgent need for legislation and self-regulation to establish proper rules for verifying the "peer" status of doctors who presume to judge other doctors, referring to the stringent criteria employed by senior medical colleges to define an "expert witness". Only those so regarded are encouraged to give expert evidence in court hearing of charges of medical incompetence. Those who ignore the publicised criteria are liable to heavy penalties.

Clearly, there is a major medical groundswell in other countries against the repetitious employment of SPR against DPs. The correspondence referred to in the paragraph above is continuing at a rate of about 100 letters weekly. There is no professional body in Australia that is dedicated to, concerned, competent or substantial enough to provide expert support for doctors facing such devastating life events as charges of being "disruptive." Clearly, Whistleblowers Australia can help, regardless of the sphere of victimisation. But for everybody in whatever situation needing protection from these pernicious threats, it is well worthwhile to consult the internet publications of the AAPS and the Semmelweis Society. Their experiences and perspectives are profound and reassuring that none of us is facing anything new or reputable.

John Wright is a member of Whistleblowers Australia.

Victorian government guilty of detrimental action against whistleblowers

Lisa Hamilton

Victoria's largest state government department has been found guilty of taking detrimental action against whistleblowers. In August 2007, the Victorian Ombudsman substantiated detrimental action taken against whistleblowers by some of the state government's most senior bureaucrats. The government department, which cannot be named for legal reasons, has provided a written apology to the whistleblowers for the pain and suffering they endured.

Over an 18-month period, the whistleblowers were subject to actions of public humiliation, with one whistleblower being forced to sit at a desk called "the naughty desk." The whistleblowers were threatened with discipline, were called "troublemakers" and one whistleblower was demoted and appointed to a position, "Manager of Special Projects," that did not exist.

The whistleblowers had their salaries ceased as punishment and were told "We [the department] are a big organisation, with lots of resources" in attempts to intimidate and bully the whistleblowers. The whistleblowers were banned from entering their workplace and had their security access cards disabled.

In 2006, a regional newspaper exposed the cover-up and problems within the department, with a front-page story and week-long media coverage. Departmental managers prohibited staff from reading the newspaper, threatened staff with demotion if they were seen reading the newspaper and physically removed copies of the newspaper from staff tearooms.

One senior bureaucrat sent an email to over 800 staff, identifying a whistleblower. An internal inquiry was conducted, with the executive setting its own terms of reference, and subsequently "no problems" were found with the department. The internal inquiry was followed by meetings with large groups of staff where the executive denounced one whistleblower and staff were told she was "too young" to know anything. Staff were told that the executive had full confidence in their managers and that there were no problems in the department.

The Victorian Ombudsman's 2005-2006 Annual Report notes "A [internal] review had been conducted prior to my investigation which did not

identify significant case practice weaknesses." (p.21).

However, following public interest disclosures by the whistleblowers, the Victorian Ombudsman "… identified 26 cases involving 47 children the region may not have responded appropriately to children at risk. I noted high numbers of unallocated cases, including high-risk infants. A significant number of these cases were not receiving adequate intervention by child protection staff and I believe this may have left a number of children, including infants, in situations of serious risk."

The Victorian Ombudsman interviewed 11 supervisors and other staff within the department and found "Significant distrust of regional management by a large number of staff in supervisory positions." (2005-2006 Annual Report of the Victorian Ombudsman, p.21).

The department's response was to require managers to attend a leadership development program, which was held in 2008, almost two years after the Victorian Ombudsman's investigation.

The offending public servants were told some 30 months after the fact that their actions against the whistleblowers constituted detrimental action according to Victorian legislation. The department failed to initiate any discipline or performance management processes against the offending public servants because of fears of breaching the confidentiality provisions of the Victorian whistleblower legislation, which protects the identity of whistleblowers.

After being found guilty of detrimental action, the department accepted liability which prevented the offending public servants from being prosecuted, and also denied the whistleblowers their legislative rights. The Victorian Ombudsman received the department's acceptance of liability and did not pursue individual offenders.

Subsequently, the department failed to discipline or performance-manage the offenders. Two senior bureaucrats were removed from the region, but were promoted to positions with salaries between $100-200,000 per annum. All offending public servants received salary increases, with two managers receiving promotions.

In 2006, Farrah Tomazin of the *The Age* newspaper reported on research conducted by the State Services Authority, an authority referred to as a public service watchdog. In her 16 January article "Bullying rife in public service," Tomazin stated "Despite the Government's pledge that whistleblowers in the bureaucracy are protected by legislation, one-third of respondents believed they would suffer if they complained about workplace problems. Half were not aware of Victoria's whistleblower protection laws. Others suspected nothing would be done if they spoke up."

Tomazin, in the same article, also reported "Victoria's biggest government department (name removed) cost taxpayers $2.4 million in Workcover compensation for stress, anxiety or depression in 2003-04, with 195 employees affected." Tomazin reported the response of government spokesman Geoff Fraser who was quoted as saying that bullying was "unacceptable and not tolerated" and the government ran campaigns through WorkSafe to combat the issue." Unfortunately, in this case, the whistleblower's appeals to WorkSafe were rejected on the basis that they did not meet WorkSafe standards for bullying and harassment, despite meeting the Victorian Ombudsman's legislative standards for detrimental action taken against them, which is a criminal offence.

This case is the first substantiated case of detrimental action against whistleblowers by Victoria's largest government department, since the *Whistleblower Protection Act* was enacted in 2001.

However, the Victorian Ombudsman has advised that they will not be reporting the findings of detrimental action against the whistleblowers in their 2007-2008 annual report, which is due to be tabled in Parliament later this year. Under legislation, the Ombudsman is required to report to Parliament but will this year omit any reference to detrimental action taken against whistleblowers by Victoria's largest government department.

Dr William De Maria identified deficiencies in the Victorian legislation in 2002 in his paper titled "The Victorian Whistleblower Protection Act: Patting the Paws of Corruption?" The whistleblowers have been told that they are catalysts for the Victorian Ombudsman's recent proposal for amending the Victorian legislation. It is therefore surprising that the Victorian Ombudsman does not intend to report this to Parliament through his annual report.

Earlier this year, Victorian federal MP Mark Dreyfus was appointed as chair of a federal government inquiry to "look at better protection for whistleblowers" (ABC AM radio, 12 July 2008). Mr Dreyfus has not yet responded to emails and letters from the whistleblowers who have offered to assist the inquiry by providing their case as an example of detrimental action, to practically illustrate how government departments currently fail to protect whistleblowers. The inquiry will also consider new laws to protect whistleblowers in the public service.

Contact Lisa on lah1101@gmail.com for further information.

NSW government charades

Whistleblowers Australia
media release, August 2008

The NSW Parliament had an inquiry about two years ago into the NSW whistleblower protection act (Protected Disclosures Act 1994), which had proven to be nearly totally ineffective. That inquiry had advocated a series of reforms, but they were never implemented. Now the government is having a second inquiry.

Whistleblowers Australia in NSW agitated in the media about this lack of action on the first set of reforms. It also complained to the Premier. We received a reply from his office to the effect that NSW agencies can successfully manage people who wish to inform the authorities of corruption or of other illegal activities in their organisations, and that the recommendations of the original report were not necessary. Whistleblowers Australia believes that the reason for not implementing the reforms is that the NSW government wishes to make it more difficult for honest people to come forward and reveal corruption in their agencies.

The major recommendation of the original report was that a special unit in the Office of the NSW Ombudsman handle whistleblower information. Its major task was to see that the information on dishonest practices was investigated, and not covered up.

The Premier's statement — that matters were satisfactory — was obviously false, as evidenced the string of corruption stories and illegal activities in NSW that have emerged since the inquiry — Wollongong Council, RailCorp, NSW Fire Brigades, are examples.

Honest people in those organisations are unwilling to come forward because they have no protection, and are employed by a government unwilling to help them. As numerous whistleblower cases in NSW and elsewhere have demonstrated, a whistleblower who reveals wrongdoing in the top levels of an organisation is invariably crucified.

The most outrageous example, which brought the situation to a crisis point, was the sacking of Gillian Sneddon, the electorate officer who blew the whistle on former NSW minister Milton Orkopoulos (who was subsequently convicted on 28 charges including having sex with children).

The upper house in NSW, the Legislative Council, where the opposition has a majority, wanted improvements, and proposed an inquiry into the Orkopoulos case, which would include the Mark Aarons and Paul Gibson affair, and the treatment of the staff at the Iguanas night club. "However, Reverend the Hon. Fred Nile and members of the Shooters Party lent their support to the Government and the matter will now be referred to a joint committee" (*Hansard*). The resolution on an inquiry was passed in the upper house and sent on to the Legislative Assembly.

The Government in the Legislative Assembly accepted the inquiry, because the alternative would be an inquiry into the much more damaging Orkopoulos and Paul Gibson affairs.

Whistleblowers Australia NSW in its submission to the government on this second inquiry has made it clear that the holding of this inquiry before the results of the first inquiry have been implemented looks suspiciously like a cover-up. It also stated that the people of this state expect a greater commitment from its representatives to building an honest and corruption-free administration. The submission also points out that the government's position of refusing to support honest employees in its public services who want to report the corruption is just encouraging additional illegal activities.

The NSW government has taken this position because it wants to prevent whistleblowers revealing corrupt activity. Even now, however, the polls show that the maladministration has become so extensive that government will not be elected. The only sensible approach of the government is to bring in the legislative reforms and to encourage an increased reporting of dishonest activities by employees who want to work for an honest administration. Such a policy would nip all corruption in the bud, early, before it becomes damaging.

Peter Bowden

Peter Bowden is President of the NSW branch of Whistleblowers Australia.

BOOK REVIEW

Resisting micromanagement

Brian Martin

Some managers tell their subordinates exactly what to do and how to do it and then closely monitor details of execution. This may be necessary and sometimes it is welcome but workers often resent the intrusion. This sort of behaviour, called micromanagement, can be counterproductive because it inhibits workers from developing and exercising their own capacities. It can also bog the organisation down in unnecessary procedures. Micromanagers are commonly called control freaks.

Micromanagement might be annoying or even soul-destroying, but is it a concern for whistleblowers? Perhaps not often on its own, but there are some links. Micromanagement stymies free and open discussion in workplaces about how to accomplish tasks and thus is likely to submerge problems, allowing them to grow into significant matters that need to be exposed. Another angle is that the micromanaging style, which can shade into bullying, can be used as a form of reprisal against whistleblowers. Finally, learning how to resist micromanagement can be useful for people who want to deal with problems. By promoting a workplace where there is greater autonomy and openness, it is harder for corruption to flourish.

Micromanagement is widely resented by workers and there is plenty of material about the problem and how harmful it is. However, there is surprisingly little written about how to challenge it. Searching for ideas quickly leads to a book by management consultant Harry E. Chambers, *My Way or the Highway: The Micromanagement Survival Guide* (San Francisco: Barrett-Koehler, 2004). This is a remarkably helpful book.

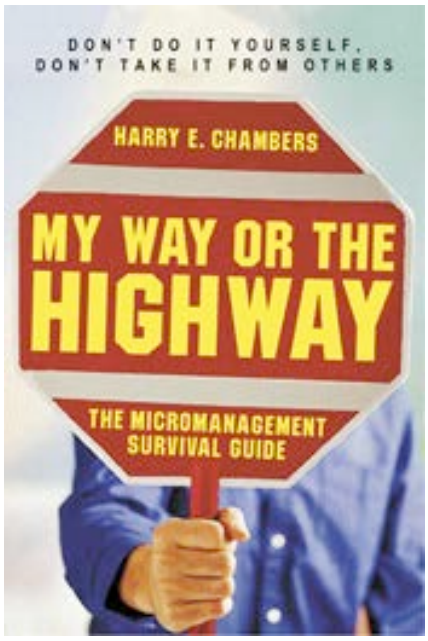
Chambers begins by describing micromanagement.

> Micromanagement is all about interference and disruption. It occurs when influence, involvement, and interaction begin to subtract value from people and processes. It is the perception of inappropriate interference in someone else's activities, responsibilities, decision making, and authority. It can also be any activity that creates interference with process, policies, systems, and procedures. Basically, micromanagement is the excessive, unwanted, counterproductive interference and disruption of people or things. (p. 14).

Micromanagement is certainly unwelcome. Chambers reports on a survey in which 79% of respondents said they had been micromanaged, with 37% of non-managers claiming it was happening currently. The impact is serious, with one-third saying they had changed jobs because of micromanagement and two-thirds saying it had affected their performance and an even higher proportion saying their morale had suffered.

Specific behaviours experienced included excessive requirements for

approval, exertion of raw power, controlling of time, and excessive monitoring and reporting. For example, workers may be expected to attend meetings irrelevant to their jobs, to prove they are busy, or to seek approval for actions they should be trusted to undertake on their own. The essence of micromanagement is control over how things are done. For a micromanager, others have to do things "my way"— as in Frank Sinatra's song — or to take the highway, in other words leave.



Though most workers and managers report having been micromanaged with detrimental effects, hardly any believe they have micromanaged others. In short, micromanagers seldom realise they are doing it. Chambers provides a questionnaire for self-assessment plus lists of informal indicators that you might be micromanaging, such as "You ever told someone, 'You are responsible for this, but before you make any decisions, be sure to check with me'" and "Delegating authority to others is as painful as gnawing off one of your own limbs" (p. 42).

Understanding micromanagement is vital, but what is really important is dealing with it. Chambers presents what he calls four realities.

> • You do not have to be a victim of micromanagement.
> • It is not about fixing "them."
> • Focus on what the situation is, not what it "should" be.
> • Exercise influence over that which you have influence over. (pp. 141-142)

He then gets down to the nitty-gritty with CUP analysis, which involves identifying factors that you control, ones are totally beyond your control and ones you partially control. You set aside the uncontrollables and concentrate on the partially controllable factors, developing strategies to address them. A lot of this is understanding what drives the micromanager and learning how to respond to their needs, while catering for your own needs at the same time.

> Dealing with micromanagers can be broken down into three steps:
> 1. Preemptive anticipation
> 2. Preemptive anticipation
> 3. (You can probably figure this step out for yourself.) (p. 158)

By preemptive anticipation, Chambers means finding out what information micromanagers want and providing it in advance, before it's required. For example, he suggests writing a Monday morning update for your manager, summarising your awareness of key issues, reassuring them of your commitment to those issues and your commitment to deadlines.

Chambers has lots of other suggestions. He gives considerable attention to approvals: an excessive demand for approvals is one of the common aspects of micromanagement, sometimes required by a particular manager and sometimes built into organisational processes.

My Way or the Highway also has chapters for micromanagers to help them understand and address their own behaviours — or to help us, if we are micromanagers — and for managers of micromanagers.

Chambers' recommendations make a lot of sense. His basic approach is to understand what is happening and then work with the micromanager to find shared commitments that can be achieved without controlling behaviours. I saw parallels with the recommendations by Judith Wyatt and Chauncey Hare in their book *Work Abuse,* another really helpful manual (reviewed in the November 1998 issue of *The Whistle*). Wyatt and Hare's approach is built on "empowered awareness" — understanding what is happening — and "strategic utilisation": setting goals, planning and preparation, evaluating alternatives and taking action. Wyatt and Hare, like Chambers, say you should figure out your own interests and the self-interests of others and align them to achieve your own goals without threatening others.

What if these approaches don't work? What if the micromanager persists in damaging behaviours despite your best efforts? Then it may be time to leave or, if there are serious problems, to figure out a way to resist or expose them.

> Frequently in dealing with micromanagers there is a temptation to "go over their head" to make others aware of your problem and, hopefully, fix it for you. Be careful. When you go over the heads of micromanagers, you take a serious risk. No one ever wants people to go above them, especially the micromanager who is driven by fear, comfort, and confusion. Expect an intense, negative reaction and probable retaliation if you do. This is a strategy of last resort; by going over their head, you are probably preparing your own exit from the stage. (p. 156)

Whistleblowers know, through bitter experience, that simply speaking out about problems may only lead to reprisals — and some of the reprisals can take the form of micromanagement. Therefore it is worthwhile learning how to handle micromanaging behaviours. This can help whistleblowers to survive and, even better, may help change a workplace into a more open and supportive environment, reducing the risk that problems will arise in the first place. For these reasons, *My Way or the Highway* is well worth close study.

Brian Martin is editor of *The Whistle.*

WBA conference and annual general meeting

Whistleblowers Australia national conference and annual general meeting

Dates
Saturday-Sunday, 6-7 December 2008

Venue
University College, University of Melbourne.

University College is located in Parkville, on the corner of College Crescent and Royal Parade, 10 minutes from Melbourne's CBD, 5 minutes from Lygon Street and 25 minutes from the airport. The conference venue can be viewed at www.unicol.unimelb.edu.au; follow the link to the conference.

Accommodation
Accommodation can be arranged directly with University College, University of Melbourne for the nights of Friday December 5 and Saturday December 6. A bed and breakfast rate of $47 per person (college room with shared bathroom) or $57 per night (room with ensuite) will be offered to conference participants.

To book, contact Kim Sawyer at kim.sawyer@unimelb.edu.au or 03-8344 8061.

Registration
$45 Saturday conference
$80 Saturday conference plus Sunday AGM

"Australia's forgotten generation: the whistleblowers"

Conference

Saturday 6 December

8.30am Registration

8:55 Opening

9.00–10.15 Session 1
The cold cases of whistleblowing
9:00 Bill De Maria, U Queensland
9:45 Discussion

10.15 *Morning tea break*

10.30–12.30 Session 2
Whistleblowing legislation
10:30 Mark Dreyfus, Chairman House of Representatives Standing Committee on Legal and Constitutional Affairs
11.15 Discussion
11:30 Kim Sawyer, The False Claims Act
12:15 Discussion

12.30–1.30 Lunch

1:30–3:00 Session 3
The right to know
1:30 Right to Know Coalition
2:15 Discussion

3:00 *Afternoon tea break*

3.15–4:30 Session 4
Whistleblowing and the private sector
3:15 Wayne Bruce, CEO Stopline
4:00 Discussion

4:30–5:45 Session 5
Whistleblowing and bullying
4:30 Evelyn Field, Bullying.com
5:15 Discussion

5:45–6:00 Conclusion

Whistleblowers Australia AGM and workshops

Sunday 7 December

9.30 for a 10am start
10 to 12.30pm: AGM
1.30 to 3.30pm: Member interest workshops and discussions
4.00pm Close

Nominations for national committee positions must be delivered in writing to the national secretary (Cynthia Kardell, 94 Copeland Road, Beecroft NSW 2119) at least 7 days in advance of the AGM, namely by Sunday 30 November. Nominations should be signed by two members and be accompanied by the written consent of the candidate.

Proxies A member can appoint another member as proxy by giving notice in writing to the secretary (Cynthia Kardell) at least 24 hours before the meeting.
Proxy forms are available at http://www.whistleblowers.org.au/const/ProxyForm.html. No member may hold more than 5 proxies.

Whistleblowers Australia contacts

Postal address: PO Box U129, Wollongong NSW 2500

New South Wales
"Caring & Sharing" meetings We listen to your story, provide feedback and possibly guidance for your next few steps. Held every Tuesday night at 7.00pm, Presbyterian Church (Crypt), 7-A Campbell St., Balmain 2041.
Contact: Cynthia Kardell, phone 02 9484 6895, fax 02 - 9481 4431, ckardell@iprimus.com.au
Website: http://www.whistleblowers.org.au/
Goulburn region: Rob Cumming, phone 0428 483 155.
Wollongong: Brian Martin, phone 02 4221 3763.
Website: http://www.uow.edu.au/arts/sts/bmartin/dissent/

Queensland: Feliks Perera, phone 07 5448 8218, feliksperera@yahoo.com; Greg McMahon, phone 07 3378 7232 (a/h) [also Whistleblowers Action Group contact]

South Australia: John Pezy, phone 08 8337 8912

Tasmania: Whistleblowers Tasmania contact: Isla MacGregor, 03 6239 1054

Victoria
Meetings are normally held the first Sunday of each month at 2.00pm, 10 Gardenia Street, Frankston North.
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Whistle
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Correction

The July issue contained a story about whistleblower Karen Smith. Due to my mistake, the photo accompanying the story was incorrect. Below is the beginning of the story and a photo of the Karen Smith referred to in it. — Brian Martin

Jessica Train, "Local whistleblower's plight is constant thorn in her side," *Bayside and Northern Suburbs Star,* 7 May 2008, p. 6

The plight of whistleblowers — those who speak out about abuses or concerns in their workplaces — is a prickly thorn in the side of Governments and those in power and the ramifications for an employee are numerous, as local resident and Advanced Assistant in Nursing Karen Smith is well aware.

Four years ago Ms Smith became a whistleblower when she complained about alleged patient abuse at Eventide Nursing Home in Brighton.

Karen Smith

To contact Ms Smith email kaz3535@bigpond.com

Whistleblowers Australia membership

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

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