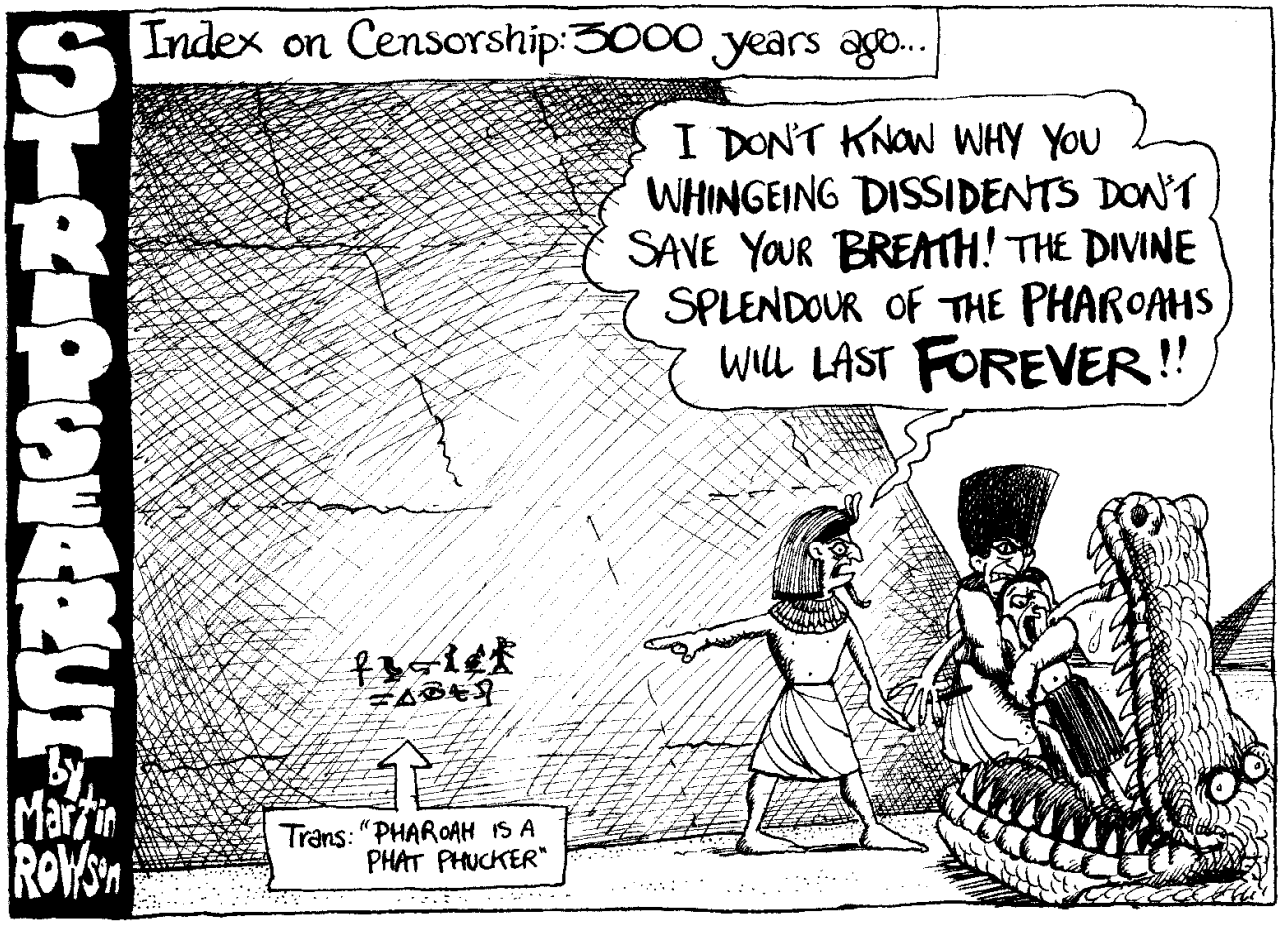
"All that is needed for evil to prosper is for people of good will to do nothing"—Edmund Burke

The Whistle

NO. 59, JULY 2009

Newsletter of Whistleblowers Australia



Media watch

Money should be no barrier to pursuing a worthy cause

Let's protect the people who take on the powerful for our benefit

Brendan Sydes and Lucy McKernan
The Age, 11 June 2009, p. 17

IMAGINE devoting years to a cause you believe is in the best interests of your community, having the validity of your action shown by winning court cases against a powerful opponent, and then having that victory overturned on appeal on a technicality and facing losing not only all your assets but your job and prospects for the future.

That is the situation Senator Bob Brown now finds himself in. But he is not the first person to face this nor will he be the last unless changes are made to the law to protect those who take on issues in the public interest.

Bob Brown

That Brown is facing potential eviction from the Senate for being unable to pay the costs of his unsuccessful legal battle against Forestry Tasmania — a company that made a net profit in 2007 of $14.6 million — highlights one of the major difficulties faced by private citizens and not-for-profit community organisations in using the courts to try to enforce environmental and other public interest laws in this country: having to pay the costs of the other side if you lose.

It is worth noting that the costs for which Brown is liable, totalling $239,368.52, do not represent the costs of the whole legal action in which he has been involved, just those of the five-day hearing before the full Federal Court (the only time costs were awarded against him).

Brown's situation is the most recent to make headlines and has a particular twist because being unable to pay this bill could force his resignation from the Senate. Last year, Blue Wedges, a community group representing the interests of environmentalists, small business owners and many others around Port Phillip Bay, was the subject of an adverse costs order far in excess of its ability to pay after it unsuccessfully challenged federal Environment Minister Peter Garrett's controversial decision to approve the channel-deepening project in Port Phillip Bay.

According to the judge, the case was public interest litigation and the pursuit of costs by the State and Federal governments and the Port of Melbourne Corporation was "akin to seeking to squeeze blood out of a stone."

In April of last year, Lawyers for Forests was allowed to sue the same minister, when a judge ruled that poverty should not prevent litigation in the public interest. The association was unsuccessful at trial and costs were awarded against it. If an appeal is unsuccessful, it will be forced to close down.

These cases are simply high-profile examples of the kind of difficulties faced by community organisations every day in trying to ensure that government and business abide by both the letter and the spirit of the laws of this country.

As lawyers, we are required to warn our clients about the possibility of having to pay costs if they are unsuccessful in their claims. In many cases, the prospect of such an award is enough to ensure that they do not even try to enforce their rights. The public interest is not served by costs rules that are a disincentive to litigation of meritorious public interest cases.

The problem of costs is well known. The Australian Law Reform Commission highlighted it in 1995, and the Victorian Law Reform Commission did so again as part of its Civil Justice Review in 2007. Both federal Attorney-General Robert McClelland and state Attorney-General Rob Hulls have acknowledged that litigation costs raise serious issues about access to justice.

McClelland referred to the cost of taking legal action as "horrendous" and Hulls was reported as saying the question of costs needed to be "urgently addressed."

The time has come to do this. Other jurisdictions, both within Australia and abroad, have shown the way. In Queensland, the Judicial Review Act 1991 can protect members of the public from adverse costs when they challenge government decisions on behalf of the public interest.

England, where our costs rules originate, has developed "protective costs orders" aimed at enhancing access to justice by protecting public interest litigants from adverse costs orders.

If attorneys-general McClelland and Hulls are serious about improving access to justice, and we have no doubt they are, the issue of costs in public interest cases must be dealt with.

Brendan Sydes is principal solicitor at Environment Defenders Office (Victoria), a community legal centre specialising in public interest environmental law, and Lucy McKernan is co-manager of the Public Interest Scheme at the Public Interest Law Clearing House.

Note: following this and other publicity, supporters came forward to pay Brown's costs.

Whistleblower site publishes Internet blacklist

Rich Bowden
Tech Herald, 19 March 2009

WHISTLEBLOWER site Wikileaks has today embarrassed the Australian government by publishing the country's communications regulator's Internet blacklist.

The sites listed by the Australian Communications and Media Authority (ACMA) catalogues a range of activities deemed unsuitable by the authority, including those related to child pornography and criminal activities.

Mysteriously a number of seemingly legitimate sites made it on to the now notorious list including a tourism site, a boarding kennel and the site of a Queensland dentist, reports the Australian Broadcasting Corporation.

"We now find Australia acting like a democratic backwater," ABC reports the Wikileaks site as saying.

"Apparently without irony, ACMA threatens fines of up to $11,000 a day for linking to sites on its secret, unreviewable, censorship blacklist — a list the Government hopes to expand into a giant national censorship machine."

Federal Minister for Communications Stephen Conroy described the leak to media as "grossly irresponsible" and said he was considering his options on the matter.

"Under existing laws the ACMA blacklist includes URLs relating to child sexual abuse, rape, incest, bestiality, sexual violence and detailed instruction in crime," Senator Conroy said.

"No one interested in cyber safety would condone the leaking of this list."

The ACMA is expected to release a statement on the matter later today. Under Australian law, anyone who republishes the list is liable to face up to 10 years imprisonment, reports the *Herald Sun.*

The security breach could not have come at a worse time for the Australian government as it struggles to pass controversial legislation which would allow the blocking of access to Web sites considered dangerous.

Leaked Australian blacklist reveals banned sites

Asher Moses
Canberra Times, 19 March 2009

THE Australian communications regulator's top-secret blacklist of banned websites has been leaked on to the web and paints a harrowing picture of Australia's forthcoming internet censorship regime.

Wikileaks, an anonymous document repository for whistleblowers, obtained the list, which has been seen by this website, and plans to publish it for public consumption on its website imminently.

Wikileaks has previously published the blacklists for Thailand, Denmark and Norway.

University of Sydney associate professor Bjorn Landfeldt said the leaked list "constitutes a condensed encyclopedia of depravity and potentially very dangerous material".

He said the leaked list would become "the concerned parent's worst nightmare" as curious children would inevitably seek it out.

But about half of the sites on the list are not related to child porn and include a slew of online poker sites, YouTube links, regular gay and straight porn sites, Wikipedia entries, euthanasia sites, websites of fringe religions such as satanic sites, fetish sites, Christian sites, the website of a tour operator and even a Queensland dentist.

"It seems to me as if just about anything can potentially get on the list," Landfelt said.

The blacklist is maintained by ACMA and provided to makers of internet filtering software that parents can opt to install on their PCs.

However, if the Government proceeds with its mandatory internet filtering scheme, sites on the blacklist will be blocked for all Australians. The Government has flagged plans to expand the blacklist to 10,000 sites or more.

In a special report, written in conjunction with the Internet Industry Association and presented to the Government over a year ago, Landfeldt warned that "list leakage" was one of the main issues associated with maintaining a secret blacklist of prohibited sites.

Julian Assange, founder of Wikileaks, dug up the blacklist after ACMA added several Wikileaks pages to the list following the site's publication of the Danish blacklist.

He said secret censorship systems were "invariably corrupted," pointing to the Thailand censorship list, which was originally billed as a mechanism to prevent child pornography but contained more than 1200 sites classified as criticising the royal family.

"In January the Thai system was used to censor Australia reportage about the imprisoned Australian writer Harry Nicolaides," he said.

"The Australian democracy must not be permitted to sleep with this loaded gun. This week saw Australia joining China and the United Arab Emirates as the only countries censoring Wikileaks."

The leaked list, understood to have been obtained from an internet filtering software maker, contains 2395 sites. ACMA said its blacklist, as at November last year, contained 1370 sites.

Assange said the disparity in the reported figure is most likely due to the fact that the list contains several duplicates and variations of the same URL that stem from a single complaint. Alternatively, some sites may have been added to the list by the filter software maker.

ACMA said Australians caught distributing the list or accessing child pornography sites on the list could face criminal charges and up to 10 years in prison.

Opposition communications spokesman Nick Minchin said the leaking of the list was irresponsible but highlighted how this type of information could surface despite the efforts of ACMA to protect it, and could be used by those with a perverse interest in its content.

"The regrettable and unfortunate reality is there will always be explicit and illegal material on the web and — regardless of blacklists, filters and the like — those with the means and know-how will find ways of accessing it," he said.

"Adult supervision is the most effective way of keeping children safe online and people shouldn't be led into believing by Labor that expanded blacklists or mandatory filters are a substitute for that."

Colin Jacobs, spokesman for the online users' lobby group Electronic Frontiers Australia, said the leak was not surprising and would only get worse once the list was sent to hundreds of Australian ISPs as part of the Government's mandatory internet filtering policy.

He said the Government could be considered a "promoter and disseminator of links to some pretty unsavoury material."

"The list itself should concern every Australian — although plenty of the material is unsavoury or even illegal, the presence of sites like YouTube, MySpace, gambling or even Christian sites on the list raises a lot of questions," he said.

"There is even a harmless tour operator on there, but there is no mechanism for a site operator to know they got on or request to be removed. The prospect of mandatory nationwide filtering of this secret list is pretty concerning from a democratic point of view."

The Communications Minister, Stephen Conroy, said the leak and publication of the ACMA blacklist would be "grossly irresponsible" and undermine efforts to improve cyber safety.

He said ACMA was investigating the matter and considering a range of possible actions including referral to the Australian Federal Police. Australians involved in making the content available would be at "serious risk of criminal prosecution."

"Under existing laws the ACMA blacklist includes URLs relating to child sexual abuse, rape, incest, bestiality, sexual violence and detailed instruction in crime," Senator Conroy said.

"No one interested in cyber safety would condone the leaking of this list."

Your Facebook secrets: jobs under threat

Asher Moses
The Age, 2 April 2009

MAKING seemingly private comments on social networking sites such as Facebook and Twitter is now a sackable offence for some professions. The NSW Department of Corrective Services is threatening to sack prison officers over posts they made to a Facebook group criticising the cash-strapped State Government's plans to privatise Parklea and Cessnock prisons.

The public sector union accused the department of using strong-arm tactics to stifle dissent and invade officers' private lives. The matter is a test of how relevant employment laws are in an internet age where people are becoming accustomed to having conversations using web tools such as Facebook and Twitter.

Private chatter which was previously limited to settings like the pub is moving online and increasingly being used against employees. Last month a Telstra employee, Leslie Nassar, was disciplined by the telco for comments he posted on Twitter.

A prison officer, who did not wish to be named for fear of retribution, said about seven officers received letters from Deputy Commissioner Gerry Schipp advising them that they were under investigation for contravening department policies and the Public Sector Employment and Management Act.

They are now being hauled individually into two rounds of interviews and presented with comments, made from home, on a Facebook group that at its peak contained just 370 members, the officer said. The group, which contained largely suggestions on how the Government could save money on jails without privatising, was open to the public for a time but is now invitation-only.

Separately, around six officers received letters from Kennedys lawyers accusing them of defaming Corrective Services Assistant Commissioner Brian Kelly in comments made on the Facebook group, the officer said.

"The department's trying to hit us with this big stick for having an opinion," the officer said. "We're prevented from speaking to the media but, I mean, Facebook wasn't around when most of us joined up … It's not like opening the paper and turning on the television, people actually make a conscious decision to join a network of like-minded individuals and have a discussion much the way you would at a coffee shop — but technology has now evolved and people do it online."

In the letters, seen by this website, the officers were accused of breaking Corrective Services policies relating to "public comment," of "bullying and/or harassing" employees and of making "offensive and/or disparaging" comments about the Commissioner, Ron Woodham, and other senior employees. The letters stated that possible disciplinary actions ranged from a caution, to a reduction in salary, to dismissal.

Public Service Association spokesman Stewart Little said he had never heard of anything like this happening anywhere in the public sector. He called it an unnecessary invasion into people's private lives.

"It just seems extraordinary to me that a department would go to such lengths as to monitor a chat room on the internet," said Little. "Obviously this is a new territory and it suggests a strong-arm tactic by a department that's really in a new confrontational phase of its privatisation campaign.

"We're in a modern age now where people will communicate using things like Facebook and their mobile phones … are we going to monitor what's said in clubs and bars and other social settings?"

A spokeswoman for the Corrective Services Minister, John Robertson, confirmed a "small number of officers" had been notified an investigation would commence and were invited to come to an interview and put forward their side of the story.

The prison officer said the comments on the Facebook group were

largely suggestions of ways Corrective Services could save money without having to privatise prisons. Some disparaging comments were made against senior officials but these were largely "tongue-in-cheek."

"I personally have no idea who I've supposed to have bullied and what comments I've made that are defamatory," the officer said. "It's a big waste of taxpayers money to investigate us for having an opinion, the irony of it being that some of the cost saving suggestions we've made have actually been implemented."

In a statement, the Department of Corrective Services described the comments as "offensive, disparaging in nature, potentially defamatory and highly critical of certain members of the Department."

Prison officers across NSW went on strike for 24 hours last night and today will join a massive anti-privatisation rally outside Parliament House.

Whistleblowers shun new laws planned by Canberra

Chris Merritt
The Australian, 17 April 2009

LEADING authorities on the protection of whistleblowers and journalists' sources have denounced the federal Government's proposed changes as inadequate and "the course of least resistance".

Whistleblowers Australia president Peter Bennett said he was deeply disappointed with the shortcomings of the whistleblower laws being considered by the Government.

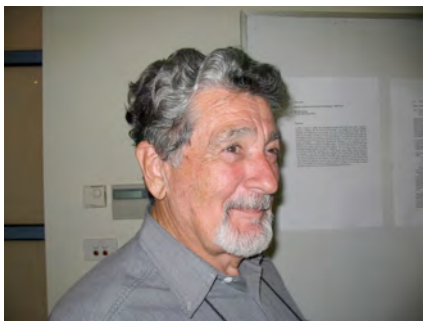
If the scheme were enacted in its current form, he said Whistleblowers Australia would advise all commonwealth public servants to ignore it when dealing with serious problems.

The scheme, which was drawn up by the House of Representatives standing committee on legal and constitutional affairs, is being considered by Special Minister of State John Faulkner.

In its current form, the scheme would introduce an elaborate and confidential complaint-handling system inside the public service. Those who use the system would be protected from liability.

But it would also retain criminal sanctions for most public disclosures, even those that are made in the public interest.

"We say the proposed system does not work," Mr Bennett said. "If this proposed system goes ahead, don't use it."



Peter Bennett

Mr Bennett's concern is that immunity from liability will not be extended to most disclosures about public sector wrongdoing that find their way into the public domain.

The only public disclosures that will be protected would be those that concern immediate and serious threats to public health or safety.

This is an improvement on the current arrangements, in which section 70 of the Commonwealth Crimes Act imposes criminal penalties on all public disclosures.

But unless Senator Faulkner changes the committee's proposal, federal law would still impose criminal penalties — and possible jail time — on public servants who tell the public about abuse and mismanagement of public resources.

Mr Bennett, who has opened discussions with Senator Faulkner's office, has a few suggestions about the type of disclosures that should be included in the final scheme.

"What about corruption, maladministration, graft, abuse of office and nepotism?" Mr Bennett said.

At the moment, he said the scheme made no provision for these matters to ever be revealed to the public.

"That is hiding things rather than making things accountable and transparent," he said.

It is not just whistleblowers who stand to suffer because of the proposal's shortcomings. If Labor produces a scheme that is shunned by whistleblowers, it will also be undermining the effectiveness of its shield law for journalists' sources.

The two schemes are linked, as Attorney-General Robert McClelland made clear in his second-reading speech on the bill that would introduce the shield law.

This link between a law aimed at protecting whistleblowers and a law aimed at protecting journalists' sources has a startling consequence: it gives the federal Government a fresh opportunity to catch and prosecute public servants who reveal wrongdoing to the media.

Mr McClelland told parliament that the Government's whistleblower scheme would provide "avenues other than the media for public interest disclosures".

Unless the whistleblower scheme is changed, the "disclosures" that Mr McClelland was referring to would take place in secret inside the public sector.

If whistleblowers decide that the information they hold is so significant that it needs to bypass the secret system and go directly to the media, the link between the two schemes comes into play.

Unless the material they pass to the media concerns a threat to public health or safety — and the threat is immediate and serious — they lose their protection under the whistleblower scheme. And they also stand to lose protection from the proposed shield law for journalists' sources.

Labor's shield law builds on the law that was put in place by former attorney-general Phillip Ruddock. Yet neither scheme provides a reliable "shield." Nowhere in either version is there a presumption that the law will protect journalists' sources.

Mr McClelland has retained the core of Mr Ruddock's blueprint, which gives judges a regulated discretion to allow journalists not to answer questions.

Labor's big change is that an unauthorised leak from the public service — a crime under federal law — will no longer automatically remove the shield from the source in question.

But if Mr Bennett is right about the limited attractions of the whistleblower

scheme, the beneficial impact of this change might prove illusory.

The Evidence Act already contains provisions that require judges to consider whether it was possible for a journalist's source to use laws, where they were available, that protect public interest disclosures.

Without a federal whistleblower law, there is no chance that this provision could be used to unmask a journalist's source.

But once Labor's whistleblower scheme comes into force, those who bypass it and go directly to the media will stand to lose the protection of the shield law. If the whistleblower scheme remains unchanged, the net effect could be that whistleblowers will lose the benefit of a shield law because of a judge's discretion instead of the words of a statute.

Mr McClelland said as much in parliament: "Failure by a source to access the protections provided by these [whistleblower] laws would be a relevant consideration in the court's determination of whether the confidential communication between a journalist and source should be privileged."

So unless Senator Faulkner strengthens the proposed whistleblower scheme in order to make it more attractive to public servants, he will be weakening the protection for sources that is contained in Mr McClelland's shield law.

There is, however, another possibility. Weak shield laws and inadequate whistleblower protection could be Labor's real goal. Such an outcome would avoid straining relations with senior bureaucrats, would make it easier for the commonwealth to persuade the states to introduce matching shield laws but would still allow Labor to place a tick alongside another election promise. For Senator Faulkner, such a minimalist goal might be problematic. It would form a sharp contrast with his call for cultural change inside the bureaucracy when he was launching reforms last month to the Freedom of Information Act.

Yet even if the problems with the whistleblower scheme are addressed, there is a more basic problem with Labor's shield law.

Before the federal election, Labor promised very little on the protection of journalists. It pledged merely to introduce a non-enforceable protocol that would provide guidance on when journalists should not be pursued in court over the identity of their sources.

Mr McClelland's shield law has already exceeded that promise. But in his second reading speech, he predicted that the scheme would be criticised for failing to go far enough or to adopt the sort of shield laws that are used in New Zealand and Britain.

He was right. Those who favour the New Zealand approach include media lawyer Justin Quill of Kelly Hazell Quill; Andrew Stewart of Baker & McKenzie; and retired NSW Supreme Court judge David Levine, who is one of the nation's most experienced media lawyers.

The New Zealand model, unlike the Ruddock-McClelland version, contains a rebuttable presumption that journalists' sources will be protected.

In both versions, a judge determines the outcome but in New Zealand the party seeking the identity of a journalist's source bears the onus of proving why it is in the public interest to displace the statutory presumption.

Under the Ruddock-McClelland model, there is no presumption either way. And because a judge remains the final arbiter, some have argued that there is really little difference between the two systems.

Mr Stewart disagrees. "A view that the proposed approach to shield laws in Australia is substantially equivalent to the New Zealand position is flawed," he said.

"Rather than recognising the significant role of the media and the importance of confidentiality of sources, the proposed changes in Australian law start from the position which favours forced disclosure of confidential sources. Given that many disclosures to journalists may technically breach some obligation, even if in a contract with an employer engaged in wrongdoing, Australian judges will find it difficult to find that the balance should favour the media and journalists."

He added "there really will be no protection until the starting position is that communications between a journalist and a source are given a protected status — with the onus being to dislodge that presumption".

Mr Levine said he was also attracted to the New Zealand system, but said it contained a potential flaw — the potential for what he described as "the tail to be wagging the dog".

"The McClelland model does not go into such fine detail. It certainly doesn't purport to start from protecting the journalist — as New Zealand seems to do," Mr Levine said.

"I think he is taking the course of least resistance."

He also warned that there were so many overlapping areas of law involved in protecting journalists' sources that "unless a package that covers privacy, whistleblowers and privilege can be developed, the problem will be insoluble."

Former commonwealth solicitor-general David Bennett QC, while not endorsing the New Zealand approach, said the McClelland model would provide no certainty about which sources would receive legal protection.

This was because the scheme relied on a judge balancing competing interests.

"The one thing one needs is certainty in advance," Mr Bennett said. "The one thing a balancing test doesn't give you is certainty in advance," he said.

He said the practical impact of a shield law that relies on a balancing test would be that "we are going to be back in the same situation we are in now".

The uncertainty of the balancing test would mean that potential sources would remain silent, or journalists would still need to promise their sources that they would go to jail before identifying their sources.

Why the U.S. must protect whistle-blowers

Dr. Robert Van Boven
statesman.com
25 April 2009

A LETTER from the Government Accountability Project and a coalition of independent nonprofits dated April 1 called on President Barack Obama to strengthen protections for whistle-blowers.

"As our country faces an economic crisis of historic proportions, one reform could save billions of taxpayer dollars and help fulfill your mandate for more transparency and accountability: authentic whistleblower protections for all federal employees. Whether the issue is stimulus spending, a financial bailout of the banking or auto industry, fraud at a Wall Street firm, prescription drug safety, environmental protection, national health care, homeland security, national defense or foreign policy — federal workers are charged with safeguarding the public trust. They must have the confidence that if they do so, they will not face repression and retaliation," the letter noted.

Robert Van Boven

However, justice continues to be denied to whistle-blowers. The U.S. Office of Special Counsel, an independent federal agency whose mission is to protect federal employees from reprisals, is woefully under-funded and has been rendered a toothless guardian in recent years. With 94 percent of all cases screened out at the OSC intake and only 1 percent having favorable actions obtained in fiscal year 2007, whistle-blowers are threatened to extinction.

Furthermore, the Merit Systems Protection Board, which adjudicates federal worker claims, has acknowledged merit in only one out of 56 whistle-blower cases since 2000. The Federal Court of Appeals delivers no more justice, with only three out of 211 cases decided in favor of whistle-blowers in the past 15 years. Such appalling statistics bode poorly for one who might otherwise speak out against fraud, waste and cronyism.

Moreover, the culture of complacency is contagious. As a Veterans Administration physician-scientist and director of the only dedicated traumatic brain injury treatment research program in Texas, I learned how disclosures can fall upon those "who have ears and hear not."

On November 19, during the House Committee on Veterans Affairs (VA) Roundtable discussion on the VA's shredder and document-handling scandal, U.S. Representative Ciro Rodriguez, Democrat from San Antonio, called for a review of reprisals and senior management misconduct at the Central Texas VA. A Sub-Committee on VA Oversight and Investigation attorney acknowledged that "there were and are problems going on down there in Texas." He wrote, "One of my biggest concerns is that simply slapping the leadership on the wrist down there is not going to cut it." Despite responses "full of sound and fury," no remedies have followed. Taxpayers, brain-injured veterans and their loved ones pay the price.

The ethics agenda on Obama's transition Web site stressed that "often the best source of information about waste, fraud, and abuse in government is an existing government employee committed to public integrity and willing to speak out. Such acts of courage and patriotism, which can sometimes save lives and often save taxpayer dollars, should be encouraged rather than stifled. We need to empower federal employees as watchdogs of wrongdoing and partners in performance." To that end, the Recovery Accountability and Transparency Board was recently formed to oversee the use of economic stimulus funds. But that's not enough.

As a 2007 PriceWaterhouseCoopers survey of more than 5,400 companies in 40 countries showed, whistle-blowers uncover more corporate fraud (43 percent) than internal auditors, corporate compliance officers and law enforcement agencies. Internal investigations and self-disclosures can be downplayed to minimize criticism and embarrassment to an organization. A "circling of the wagons" often occurs to protect the interests of officials at the expense of the public they are supposed to serve.

Leadership, integrity, accountability and transparency in government are principles that serve as beacons of hope and ethical standards for people around the world. Whistle-blowers play critical roles in keeping the beacons burning brightly.

We need to protect them.

"JAMA" orders whistle-blowers to blow their whistles in private

Paul Basken
Chronicle of Higher Education,
News Blog, 23 March 2009

THE longstanding ethical principle of medical students and physicians — "First do no harm" — appears to be taking on a new meaning at one of the world's top medical journals.

The *Journal of the American Medical Association,* in an editorial published on Friday, has warned that anyone raising a conflict-of-interest complaint about one of its authors should do so in private to the editors, without telling any outsiders.

JAMA's warning stems from a case involving Jonathan Leo, an associate professor of neuroanatomy at Lincoln Memorial University, in Tennessee, who found problems in a study published in *JAMA* by a University of Iowa psychiatry professor, Robert G. Robinson, about the use of antidepressants in stroke patients. Dr. Robinson, according to Mr. Leo, also didn't disclose a financial relationship with the maker of the drug involved in the study.

Mr. Leo reported his concerns to *JAMA* in October. Finally, this month, he publicly revealed his complaint in a letter published in the *BMJ* (formerly known as the *British Medical Journal*).

One week later, *JAMA* published a correction and a letter from Dr. Robinson conceding he had in fact been paid by the drug company and had failed to report that.

In its editorial, *JAMA* affirmed the need to guard against conflicts of interest. Yet *JAMA* said that, in the future, anyone suspecting a conflict involving one of its authors should tell *JAMA* and "should not reveal this information to third parties or the media while the investigation is under way." *JAMA* said it could be trusted to handle the matter fairly.

"A rush to judgment may spark heat and controversy," it said, "but rarely sheds light or advances medical discourse."

JAMA editors denied suggestions by Mr. Leo and his university dean that the journal had threatened to damage the reputation of the university over Mr. Leo's decision to publicly reveal his allegation against Dr. Robinson. *JAMA* did not say, however, what it would do if a whistle-blower behaved similarly in the future, in violation of *JAMA*'s new policy. *JAMA* also did not say how long whistle-blowers should expect the journal to take to look into their complaints.

Whistleblower's revenge

Bill Becker
climateprogress.org
16 March 2009

THE gust of wind that surged through Washington D.C. earlier this month was not a warm front moving in. It was the collective sigh of relief when President Barack Obama issued a memorandum that will protect the work of the 100,000 scientists and engineers in the U.S. government.

But it's likely that no one felt a greater sense of relief — or vindication — than Rick Piltz.

Rick is the guy who blew the whistle on the Bush Administration's censorship of federal climate science. More specifically, he's the guy who told the *New York Times* about the politically motivated manipulation of climate science reports by Phil Cooney, an oil industry lobbyist who was appointed to a top position in the White House Council on Environmental Quality (CEQ).


Rick Piltz

It wasn't a pleasant experience for Rick. From his former position as Senior Associate in the office that coordinates the U.S. Climate Change Science Program (CCSP), he witnessed a sustained government cover-up of federal climate science. To blow the whistle, he resigned after 10 years in that job and gave up his six-figure salary.

The CCSP is a joint effort by 13 federal agencies to study what climate change is, how it's progressing and what the impacts will be. Participants include many of the nation's top climate specialists from the National Aeronautic and Space Administration, the National Oceanic and Atmospheric Administration, the National Science Foundation, the U.S. Department of Energy, the U.S. Environmental Protection Agency and several other government agencies.

Rick saw the blatantly dishonest and disgraceful pattern of how the White House and its political appointees were handling reports from these agencies. One example was the type of censorship Cooney was doing at the CEQ. Cooney, who came to government from the American Petroleum Institute, oversaw the CCSP's work for the White House.

"Cooney waited until the 12th hour, after the career scientists had finished reviewing the reports," Rick recalls. "He edited them at the last minute." His edits weren't minor changes in grammar and punctuation; Cooney was watering down scientists' conclusions.

But Cooney was just one operative in a much broader pattern in the Bush Administration, Rick says. The Administration modified or suppressed many other scientific findings, including the important national climate assessment written in the final months of the Clinton-Gore Administration. That report, required under the 1990 Global Change Research Act, covered the potential impact of climate change on every region of the United States, on its water resources and coastal zones.

"They didn't suppress it on the basis of science," Rick says. "They suppressed it because of politics. The logical conclusion of the assessment was that the U.S. had to take action, and the Administration didn't want action. People had not yet grasped the lengths the Administration would go to misrepresent the intelligence about climate change."

With Republicans in Congress unwilling to blow the whistle on a president from their own party, a lack of oversight added to the problem.

So one day in March 2005, Rick packed his files in boxes, moved them to his home office and resigned from his job. "I just got tired of accommodating it," he said. "I had to get out of there to tell this story." He met with the Government Accountability Project — a nonprofit that advises whistleblowers on their rights. Then he called the *New York Times*.

"I didn't know whether what I was saying would have any impact," he said. It did. The *New York Times* broke the story on Page 1, on June 8, 2005. Within hours, Rick was contacted by ABC, NBC and CBS, CNN, the *Washington Post* and even the British Broadcasting Company.

Cooney resigned two days after the story broke and moved to a job at ExxonMobil.

When Democrats took over Congress after the 2006 election, they held hearings on the Bush Administration's handling of climate science. Rick provided detailed testimony with 25 exhibits, including the documents that Cooney edited. The House Committee on Oversight and Government Reform conducted a 16-month investigation of the Bush Administration's use of climate science and concluded the Administration "engaged in a systematic effort to manipulate climate change science and mislead policymakers and the public about the

dangers of global warming."

Meantime, Rick spent the next nine months without income or benefits. He cashed in his retirement money and took out an equity loan on his home to start Climate Science Watch, described on its web site as a "nonprofit public interest education and advocacy project dedicated to holding public officials accountable for the integrity and effectiveness with which they use climate science and related research in government policymaking, toward the goal of enabling society to respond effectively to the challenges posed by global warming and climate change." His salary today is one-third less than he earned in government.

In his new memo to federal agencies, President Obama wrote:

> The public must be able to trust the science and scientific process informing public policy decisions. Political officials should not suppress or alter scientific or technological findings and conclusions. If scientific and technological information is developed and used by the Federal Government, it should ordinarily be made available to the public. To the extent permitted by law, there should be transparency in the preparation, identification, and use of scientific and technological information in policymaking. The selection of scientists and technology professionals for positions in the executive branch should be based on their scientific and technological knowledge, credentials, experience, and integrity.

Obama directed agencies to institute a number of reforms to make scientific information more readily available to the public and to give greater protection to future Rick Piltzes who blow the whistle on the suppression or misuse of science.

So here's to Rick Piltz, to federal scientists like Jim Hansen who continued speaking out about climate change under threat of retaliation, and to those tens of thousands of other scientists scattered throughout the government's agencies and 700 research institutions, trying to make the nation smarter about many of the key issues of our time.

And here's to President Obama for ordering that ideology and politics will no longer interfere with science in the United States government.

As I've written before, one of the most difficult challenges facing our elected leaders will be to close the gap between what scientists consider necessary and what politicians consider possible. With the prospect of unfiltered science, that gap might now become a little smaller.

Blowing whistle pays off big for fortunate few

Bill Myers
Washington Examiner, 27 May 2009

FOR the fortunate few, exposing corruption can be their winning lottery ticket.

Since 1986, more than $20 billion has been paid out in fraud lawsuits brought by whistleblowers.

It has made some midlevel bureaucrats very rich.

"I admit it: The money also did help," said John Schilling, an accountant cum government witness who helped expose massive Medicare fraud by the hospital chain Columbia HCA.

Schilling and another whistleblower shared a $100 million reward for their efforts.

"I can also be proud to my own family — my own kids — and show that I didn't succumb to peer pressure," he said. "I did the right thing."

On Friday, President Barack Obama signed legislation making it easier to bring whistleblower suits and expanding definitions of fraud. That expanded a law that has been on the books since the Civil War, and was enhanced in 1986.

Under the False Claims Act, the government can recover treble the amount of fraud. The so-called "qui tam" provisions of the law give whistleblowers — called "relators" — up to one-quarter of the recovery.

Settlements and judgments from the act have become staggering.

"You used to get a multimillion dollar settlement and that was a big deal. Now the pharmaceutical cases are literally in the billions," said Rudolph Contreras, a prosecutor who handles civil litigation for the U.S. attorney's office in D.C.

It's growing in other areas, too.

In March, lawyers at Ashcraft & Gerel announced a $128 million settlement with Network Appliance Inc., which was accused of skirting its "best prices" promise in its contract with the U.S. General Services Administration.

The settlement — a record for GSA — paid Rockville analyst Igor Kapuscinski more than $19 million for exposing the fraud.

"A lot of the time the relators are insiders who know things that we wouldn't find out about," Contreras said.

Kapuscinski's lawyer, Altomease Kennedy, said that he is a rare bird.

"The reality is, the average recovery is not huge," Kennedy said. "These are good people trying to do a good thing. They're taking a huge risk."

According to a 2006 study by the U.S. Government Accountability Office, the median recovery from False Claims Act cases was nearly $785,000; the median payout to whistleblowers was nearly $124,000.

Even the big winners have scars from their ordeals.

James Alderson, a hospital accountant from Whitefish, Mont., shared Schilling's $100 million reward and was given another $20 million for exposing the Columbia HCA fraud. It took 13 years of grueling litigation.

"Once it really became public in 1998, I was done in the industry. No one wanted me," he said. "I ended up doing seminars on 'thriving and surviving in accounts payable.' "

Not everyone walks away a winner. Former Amtrak employee Ed Totten found himself out of a job after he accused two companies of delivering defective rail cars to Amtrak. Then-appellate Judge John Roberts, now chief justice of the Supreme Court, ruled that Totten couldn't cash in because Amtrak wasn't technically a government agency.

The bill Obama signed last week changed the provision cited in the Roberts decision.

"At the end of the day, he's right," said Totten's lawyer, Vincent McKnight. "Yet he went through hell. And he loses."

Texas businessman Robert Lee accused his competitors of selling Chinese-made office supplies to the

GSA in violation of federal law. His lawyers obtained a $27 million settlement, and Lee was paid $3 million.

But he says the litigation took years to work through and that his business suffered.

"In the beginning, nobody cared. After a certain period of time, we were very tired of telling them about this," Lee said.

Lee said he's not sure his lawsuit made a difference.

"I see that other companies are still doing the same thing," he said. "We may need to watch this."

Changing the face of whistleblowing

Statutory protection, support from regulatory bodies and a culture change are required

Peter Gooderham
BMJ, Vol. 338, 27 May 2009
(references omitted)

A DECADE after the scandal at Bristol Royal Infirmary whistleblowing is still hazardous to whistleblowers. A whistleblower is a person who informs on another or makes public disclosure of corruption or wrongdoing. Margaret Haywood was struck off by the Nursing and Midwifery Council (NMC) after exposing poor standards of care at Brighton and Sussex University Hospitals NHS Trust. At the same time, prominent individuals have complained that whistleblowing was inadequate at Mid-Staffordshire NHS Foundation Trust, which has been widely reported in terms of hundreds of unnecessary deaths. What is the problem?

Most patients would surely expect doctors generally to protect them from potential harm; doing so has been a key part of medical ethics for centuries. The General Medical Council (GMC) stipulates a professional ethical duty to raise concerns. Doctors and other healthcare staff owe their patients a duty of care. Failure to protect patients from harm may breach this duty, and resulting injury may give rise to civil and criminal legal liability. An NHS doctor is likely to have a contractual duty to participate in clinical governance procedures, which should include systems for raising concerns, and guidance on how to proceed when appropriate action is not taken. How often such systems exist in practice is unknown. Appropriate documented warnings to employers about threats to patient safety should protect individuals from liability. The warnings should comply with local policy (where it exists), go through the proper channels (not through the media at an early stage), and be documented in writing.

Where governance procedures work smoothly, the term whistleblowing may be misleading. It suggests an escalated disclosure because appropriate action has not yet been taken. Careful consideration is necessary before whistleblowing, which too often harms the whistleblowers themselves. The concerns of Dr Stephen Bolsin, the Bristol whistleblower, about unsafe children's heart surgery, were "cavalierly dismissed," his career stalled, and he now works on the other side of the world [in Australia — *ed.*].

Whistleblowers may be made to feel that they are the problem. More seriously, they may find themselves the subject of retaliatory complaints and disciplinary action. Wilmshurst reports that in one case of research fraud, whistleblowers were "advised to keep quiet or their careers would suffer." He found that when he made one complaint to the GMC, it gave priority to investigating him for disparagement. He also discovered that his defence body was instrumental in pressurising him to drop his concerns about another case of research fraud. The chairman of the BMA recently described "a culture of threats and bullying that stops whistle-blowing." It is no surprise that whistleblowers can be reluctant.

Limited protection for whistleblowers is afforded by the Public Interest Disclosure Act 1998 (PIDA 1998), which "renders void contractual duties of confidentiality between employer and employee to the extent that they preclude the worker from making a 'protected disclosure'. A protected disclosure is a disclosure which is not itself a criminal offence but which raises legitimate concerns about the employer's business and is made in good faith through appropriate channels."

Some believe that the protection the act affords is inadequate, and that it did not help the Bristol whistleblower. PIDA 1998 took effect via amendments to the law of unfair dismissal and there are, arguably, inadequacies in its operation. The act has influenced the development of policies on disclosures in the public interest by NHS trusts, although it is not clear how effective these are in affording protection to whistleblowers or the public interest. Would-be whistleblowers should seek advice from their defence bodies, and possibly the BMA or Public Concern at Work.

The document "Blowing the whistle" offers relevant and practical guidance. Of particular importance is the need for whistleblowers to protect their own position. This includes careful documentation and "playing by the rules" — that is, adhering to the employer's stated policy as far as possible. The Brighton whistleblower was open to NMC disciplinary proceedings because she breached patient confidentiality and did not exhaust internal systems for raising concerns before releasing details to the media. The document also lists techniques used to discredit whistleblowers.

Concerning Mid-Staffordshire NHS Trust, the chairman of the Healthcare Commission indicated that warnings existed about some of its problems for years before the problems became publicly known. Why should staff accept the risks of whistleblowing if warnings are ignored?

The chairman of the Care Quality Commission has criticised staff at Mid-Staffordshire NHS Trust and elsewhere for operating in a "culture of silence." But the commission's plan to assess progress at Stafford does not mention whistleblowers. The secretary of state for health has stated: "I do not understand why clinicians whose primary role is the safety of their patients are somehow concerned about whistleblowing."

Issuing glib criticisms may worsen the situation by exacerbating a culture not just of silence, but of fear. Professional people may feel damned if they do raise concerns, and damned if they don't. Several measures should be considered, including greater statutory protection, more support from regulatory bodies, and, above all, a culture

change to encourage whistleblowing. A start would be for those in official positions to recognise the risks of whistleblowing. Then they might begin to limit the damage wrought by the next Bristol, Brighton, and Stafford, scandals which are probably already happening.

Peter Gooderham is an associate tutor at the Cardiff Law School.

Whistleblower John Wick: I am proud to have exposed MPs' expenses scandal

John Wick
Daily Telegraph (UK), 22 May 2009

AT the beginning of March I thought I was going to have a stress free day in the office when I received the call that led to the dramatic events which have unfolded over the past fortnight.

Someone had suggested that the caller make contact with me. The person on the end of the line told me he had a hard drive which contained details of every MP's expense claims over the past four years.

Every receipt, every claim and every piece of correspondence between MPs and fees office staff was detailed — some four million separate pieces of information.

I, along with members of the public, had been following in the press the ongoing saga of MPs' expenses and was well aware that Parliament and the Speaker had fought hard to suppress this information.

However, during the course of this conversation — and several other similar conversations with the caller over a period of time — it became apparent that those directly involved in processing the raw data were shocked and appalled by what they were seeing.

It was obvious there was also a major failure in the way the parliamentary authorities had handled such sensitive data.

Government ministers had overseen a series of data losses involving the electronic records of ordinary people in recent times and here was the proof that they could not even properly protect their own information.

I was being asked whether I could release the information into the public domain.

This was clearly a matter of significant public interest and the ongoing abuse of taxpayers' money was an affront to ordinary people. I was also being told that critical information — particularly the removal of addresses from the files — would lead to many of the scams never being publicly exposed.

The ultimate source was adamant that the key thing was that both the information and the way in which it was handled should be in the public domain and that its release was in the public interest.

As a former military man, I have been in some tricky situations. I served in both the Parachute Regiment and the Special Air Service and have worked as a military and security adviser overseas.

I now run a successful private intelligence company which has negotiated complicated ransom demands in hostile environments. Several former commissioners of the Metropolitan Police have served on the boards of my companies.

John Wick

However, this was of a different order. I was assured that the data was not stolen but that it was an unregistered copy that had been produced as a result of the lax and unprofessional security procedures used in the House of Commons administration.

I took legal advice. It appeared that there were some very grey areas and it could be that the police would want to investigate if I was identified as the person who orchestrated the release of the information. My military training had, however, prepared me for far worse than a police cell — and the public interest in this information being publicised was clear and compelling.

But what was also very clear was that the Government would be embarrassed (this had already previously happened when expenses information relating to Jacqui Smith, the Home Secretary, had been released).

I had to do this on the understanding that there could be a serious negative reaction to my involvement and there might be a range of hidden ramifications both for me and my business. I was also aware that there were already some intense investigations being carried out within the Houses of Parliament and some of its sub-contractors, as a result of the leak of information about the Home Secretary and others.

It was highly likely that the persons who had been involved in the collection of this information would be punished or made scapegoats by their employer and lose their jobs.

However, I decided to push ahead. I asked for a demonstration of the type of information and for a disc to be sent to me. This they did.

I also asked for further background as to why they were so concerned about the procedures for the handling of sensitive information — again a detailed explanation was quickly forthcoming.

An analysis of the contents of the disc — containing the records of five MPs — quickly confirmed my worst fears. The way in which MPs were abusing the system was an absolute scandal and everyone had a right to know.

What was also clear to me was that the Speaker's office either did not know what was going on in the fees

office — which smacked of incompetence — or did know and did nothing about it, which was unforgivable.

But there was one, final hurdle that I had to overcome. I am a Conservative Party supporter who has acted as an officer for one of the party's oldest fund-raising clubs.

I have strong connections to senior Conservatives and count several Tory MPs as friends.

I had to put my political allegiances to one side. This was a scandal across the political spectrum with some Conservative MPs' behaviour as reprehensible as their Labour counterparts.

The public release of the information had to be thorough, across every party, and the Conservatives would have to accept the consequences with the other parties.

I had never been involved in sensitive negotiations with newspapers and was therefore probably naïve in my initial approach.

We were asking for a detailed and thorough exposé of the information — this was not information which was to be sold to the highest bidder and was probably best suited to a serious newspaper. One such serious newspaper rejected the proposal for reasons I still cannot quite fathom. Surely an overwhelming public interest defence would outweigh any legal concerns the paper might have?

A tabloid newspaper attempted to buy certain names. Another mid-market paper saw a small sample disc and immediately published details from it. None of this was part of the plan, or how we wanted to proceed.

Throughout much of April, we were in discussions with *The Daily Telegraph*. The paper wanted to do the project justice.

After much discussion with those who had obtained the information, we decided to push ahead on the basis that the *Telegraph* would treat the story in a balanced manner.

On Wednesday April 30, the *Telegraph* was exclusively granted the right for Robert Winnett to study the full details of MPs' expenses claims for 10 days — after which the *Telegraph* would decide whether to push ahead and publish it.

On the evening of Thursday May 7th, the *Telegraph* informed me that the information was, as I had known, dynamite and that the first of a series of articles would be appearing in the following day's newspaper.

Within hours, every evening news bulletin was reporting details of the expense claims made by Cabinet ministers — and for virtually every day since, we have watched the news as the expenses system has been exposed to its rotten core.

The way in which the *Telegraph* has detailed the expenses scandal has been how I envisaged it.

Although many of the articles have made uncomfortable reading for Conservative supporters such as me, David Cameron's response has been, in my view, exemplary.

Throughout much of the past fortnight, I have been pursued by other journalists and lived with the ongoing uncertainty of a possible criminal investigation.

However, the Speaker has announced he will step down next month, serious reform is now inevitable and the police have said there will be no criminal investigation into the leaking of the expenses information.

I have played my part in history. It is now for others to decide on the best way to move forward and punish those who have been exposed.

There is one final footnote to this extraordinary saga from my perspective, though.

One of the untold stories of the leaking of MPs expenses is what it shows about data security at even the highest levels of British life. Despite advice from the security services, these documents were not treated as "secret" or even "confidential."

Therefore, within Parliament they were not handled in any special way.

Standing back and bringing my security background into play, it should be noted that a document or piece of data's level of security marking generally reflects the damage that is likely to result from the assets being "compromised" or publicly released.

So if there was no protective marking, Parliamentary officials must have expected no damage from compromise!

I do not believe that the parliamentary staff handling the data were security cleared and people working on the information were never checked when leaving, nor did they work in a secure environment.

All of this must have been known by the Speaker's office, which failed to act and be responsible for the data and those working on it.

The protective "classification" given to this project was described to me by one of those involved as offering the same protection as a "wet paper bag."

Those responsible have, therefore, not only made the leak possible but have also compromised all the decent, conscientious people in Parliament who worked hard on this project.

Ironically, I believe that it was only the outside agency which treated the data as secret and put the correct procedures in place.

The fault for this lies at the top and is indicative of the haphazard way in which personal data for millions of people is treated by the Government.

The expenses scandal may have exposed serious abuse and possible corruption within the Palace of Westminster, but it also shows the abysmal standards of data protection at the heart of British life.

One can only hope that a new era of professionalism and diligence will now take root as our parliamentary system reforms itself.

As a man who served Queen and country in the Armed Forces, I feel proud to have played my part in what the *Telegraph* rightly describes as "a very British revolution."

Chaos at medical practice

Editor's note An anonymous letter was sent to Whistleblowers Australia earlier this year. It is impossible to reproduce it as written because of defamatory statements about individuals. This is a version of the letter with names and details changed. I have obtained advice supporting the basic claims.

I am advising you anonymously of the grave situation at my former workplace as it is putting the health of many people at risk. It may cause problems for me if I speak openly as Care Company* has many lawyers working for them and I may have difficulty finding a job in future if I am not careful. Last year our practice's owner was taken over by Care Company. The new owners immediately tried to cut costs to the minimum despite the fact that the practice was very well run and making good profits, apparently one of the highest in the state. Late in the year, Care Company sent over two people to sack two junior workers who were on probation and about to be appointed permanently.

When our doctor's representative tried to talk some sense into Care Company representatives, he was dismissed on the spot and marched out of the building under escort whilst his patients were left sitting in the waiting room. His patients in nursing homes and hospital were left without a doctor. As a result another doctor resigned as did the practice manager. This was followed over the next few months by 13 of the previous 16 receptionists and nurses resigning as soon as they could locate other work. The remaining receptionists are all looking for alternative employment.

Dr J Smith* resigned as soon as Care Company took over. He knew what was coming. Dr S Jones* left for another city. These doctors were not tied to a contract. All the remaining doctors are planning to leave as soon as their contracts expire. They have contracts in place preventing them to work in the area for a year after leaving so some will relocate. This is a disaster for a place like ours with a doctor shortage.

The doctors requested Care Company to sell the practice to them so they could run it themselves but this was rejected. The relieving practice manager sent over from another city resigned after a few days and somebody had to fly over from across the country to do the job, flying back home every weekend at great expense.

The next practice manager was sacked after a few weeks. A new practice manager was appointed and she also resigned in disgust leaving three or four inexperienced junior staff who cannot handle all the incoming phone calls. As a result many people give up trying to make an appointment over the phone as they are kept on hold endlessly.

A large number of patients are requesting to have their records transferred but there are not enough staff to do this. This is dangerous to their health. The remaining doctors have hung a portrait of their dismissed representative in the reception area and are refusing to take it down despite the insistence of Care Company management. They say they will take it down when the last doctor leaves the building. I hope you can publish this in the interest of people's health.

* Name changed.

Telling your story

Brian Martin

PETER Rost worked for a moderate-sized pharmaceutical company that was taken over by the giant Pfizer — and the impact of the takeover was devastating on employees. Rost decided to oppose the US drug industry's opposition to reimportation of cheaper drugs from other countries. His 2006 book — *The Whistleblower: Confessions of a Healthcare Hitman* — is a fantastic exposé, engagingly written with damning information.

Surely there should be more books like this: the comprehensive story from the point of view of a whistleblower. My aim here is to tell you how very difficult it is to bring off a successful book-length exposé.

Peter Rost

Every so often, someone contacts me and says "I want to write a book about my case" because they believe their story is so big and important that only a book can do it justice. However, I know from experience that writing a book is a hard way to go about it.

The goal is attractive: a path-breaking exposé of crime, corruption and abuse, sitting in a prime location on bookseller shelves and burning up the airwaves with interviews and commentary — just like Rost's book. Alas, it's hardly ever like that.

Writing a book is too big as an initial goal. It's like saying, "I'm going to swim the English Channel. That will show everyone." Unless you've done lots of shorter swims, it's misguided.

So I say "You'll have a much bigger impact by writing an article. A lot more people will read an article than a book. You can finish it more quickly. And if the reception is good, then you can consider a book."

What I could say, but don't, is that most people who begin writing a book never finish it. Writing an article is more sensible because it has a better success rate, and if it isn't completed or published, there's less effort wasted. In other words, choose a path in which the cost of failure is not too great.

Now suppose you don't listen to this sort of advice and instead go ahead and write your book anyway. What next? Finding a publisher. This is harder than you imagine. For you, your story is so important that everyone must want to read it. The reality is that the publishing industry is tough. Lots and lots of people are writing books,

and there aren't enough publishers for all the books. The result: rejection.

My first book was rejected by 30 publishers before it found a home. For a couple of my later books, publishers stalled for years before making a decision — usually rejection — so the material got out of date. Just as importantly, delays are often demoralising. I know lots of colleagues who've written books and given up trying to find publishers. Being the author of a book is important for their careers, but even so they can't stomach repeated rejection.

Even when a publisher says yes, that's not the end of the effort. Often the publisher wants changes, sometimes extensive changes. Over to you for more work. Then the process of copyediting, checking proofs and getting the book into print can take many months. A typical delay is a year. One publisher took over two years after I submitted the final revised manuscript. I've heard stories of even longer delays.

This is another reason for writing an article. You can maintain your motivation more easily.

Writing is a skill and like any other skill it takes time and effort to become good at it. Famous novelists spend at least a decade writing stories and books, some never published, before producing their greatest works.

You don't need to write like a famous novelist, but books do need to be up to a certain standard for people to want to read them. Whenever you see a book by a celebrity — a pop star or sporting figure — you can bet the celebrity didn't do all the work. Usually there is a ghostwriter, a person who does the writing behind the scenes. Sometimes the ghostwriter talks to the celebrity over many hours, recording the conversations, and then uses this material to write the book, which is (usually!) checked by the celebrity. Other times the celebrity does some actual writing and the ghostwriter reorganises it, checks facts, corrects expression and puts it all into proper prose.

If your whistleblowing story is huge — namely you're already famous because of it — then a publisher might arrange for a ghostwriter. If your story is less than huge, but still pretty big — you're not widely known but your story is a breakthrough — then you may have to write your own story, and a publisher will assign an editor to fix your text. That could mean polishing expression here and there or, on the other hand, drastic pruning, reorganisation and insertion of new material.

Does this count as *your* book? Certainly it's your story. And you're listed on the cover as the author. If you and/or the publisher are generous, the ghostwriter will be a co-author: books by celebrities sometimes have a second author who did most of the writing.

So let's proceed. You have a publisher and your book comes out. Wonderful! But publishing is only the first step. Next come distribution and sales. Your book might be a bestseller — but, unfortunately, it's more likely to sell a few hundred or a few thousand copies and then end up on the remainder shelves, in those bookshops with low prices that sell books no one wants to buy at full price.

Let's say your book sells 1000 copies. That's pretty good, especially in Australia. Some of my books haven't sold nearly that many. Of course, my books are more academic than a typical whistleblower book. If your book is a racy, engaging story, more people will want to read it.

But you're pretty much at the mercy of the publisher. Some publishers are effective at promotion, but others do very little — most of their effort goes into the few books that promise the greatest return. Your book might not be in bookshops. When people order it, it may take ages to arrive. The price may be too high. It may be distributed in just one country, so you miss millions of potential readers.

If you're so inclined, you can promote your book yourself, like Ray Hoser who went door to door selling his books on Victorian police corruption. Ray published those books himself — he paid for the printing and took the risk. This is an option for you. But you need to have enormous energy. Writing the book is one thing. Promoting it requires at least as much stamina. If this option appeals to you, use a search engine to look up "self-publishing" and you'll find plenty of information.

Peter Rost had a very big story: shenanigans in the pharmaceutical industry, one of the biggest and most profitable industries in the world. But he didn't end up with a big-name publisher, but instead with Soft Skull Press in New York. That's okay. Some smaller publishers are much better at promotion, because they take personal interest in each book. But seldom do they have the international distribution networks of the major publishers.

Don't expect to make a lot of money by being an author. The pickings are very slim, especially for non-fiction. The average published author makes only a few thousand dollars a year. Just about any other occupation will give better hourly pay.

So, once again, I think it's worth considering another option: publishing on the web. You've written your book and had grammar-savvy friends check it. Instead of spending months or years searching for a publisher and being stuck with poor distribution, you can publish immediately and at low cost on the web.

I know from experience how useful this can be. Some of my books have sold only a few hundred printed copies but receive thousands of hits every year on my website. Furthermore, they are being read by people across the world — for example in Italy and South Korea — where the book has never been distributed in hard copy. On the web, your writing can find readers you never knew existed.

So by all means tell your story. I think it's one of the most useful things any whistleblower can do to help others. It's effective to tell a story and especially valuable to draw out lessons for others. But remember that a book is a big operation and publishing in print is unreliable, slow and has limited distribution. So consider two options: starting small — an article is more achievable — and publishing on the web. Happy writing!

PS Do read Peter Rost's book, an amazing story of whistleblowing in the pharmaceutical industry.

Brian Martin is editor of *The Whistle*.

Whistleblowers Australia 2009 conference and AGM

The 2009 National Conference and annual general meeting of WBA will be held on the weekend of December 5 and 6 at Aquinas College, University of Adelaide.
Aquinas College is located at 1 Palmer Place, on the corner of Palmer Place and Montefiore Hill North, Adelaide (see map on website), a 15–20 minute walk from the CBD, or a 5 minute bus ride from the CBD. It is within 25 minutes from Adelaide Airport. The conference venue can be viewed at http://www.adelaide.edu.au/Aquinas/ml-contact.html where there is also a link to a map showing the location of Aquinas College.

Accommodation at Aquinas College
Bed & breakfast: $50 per night

Conference costs
Saturday (conference), $45
Sunday (AGM, workshops), $35
Both days, $80
Conference dinner, $30

The conference dinner will be a three-course meal with a vegetarian option. Lunch as well as morning and afternoon tea will be provided to attendees at the Saturday conference and the Sunday AGM.

Members should advise Shelley Pezy, conference co-convenor, no later than Friday November 20 of their accommodation requirements, at
Phone: 08 8303 5563
Email: archerpezy@adam.com.au
Postal address: Molecular & Biomedical Science, University of Adelaide, Adelaide SA 5005

Payment options

1. Cash paid on the day. Be sure to tell Shelley you're coming.

2. Cheque or money order paid to Whistleblowers Australia and posted to Feliks Perera, Treasurer, Unit 1, 5 Wayne Avenue, Marcoola Qld 4564.

3. PayPal

4. Direct deposit

For information about options 3 and 4, contact Feliks Perera (feliksperera@yahoo.com or phone 07 5448 8218) or Shelley (details bottom left on this page).


Aquinas College

Draft programme

Saturday 5 December
8.45am, Registration
9.15, Welcome, Peter Bennett, WBA President
9.30, Janet Giles, SA Unions
10.15, Questions and discussion
10.45, Morning tea
11.15, Hon David Winderlich – South Australian Whistleblowing legislation
12.00, Questions and discussion
12.30, Lunch
1.30, Panel including Janet Giles, David Winderlich and two others
2.30, A whistleblower's experience of blowing the whistle
3.00, Afternoon tea
3.30, Workshops
4.30, Report back from workshops
5.00, Close
6.30, Conference dinner, Aquinas College
8.30, WBA party/social event,

Sunday 6 December
9.00am, Annual General Meeting
10.30, Morning tea
11.00, Discussion: specific goals and how WBA is going to achieve them; resolution of issues
12.30, Lunch
1.30, Workshops
4.00, Finish

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 7.00pm on the 2nd and 4th Tuesday nights of each month, 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 Stan van de Wiel, phone 0414 354 448

Whistle
Editor: Brian Martin, bmartin@uow.edu.au
Phones 02 4221 3763, 02 4228 7860
Address: PO Box U129, Wollongong NSW 2500
Associate editor: Don Eldridge
Thanks to Cynthia Kardell and Patricia Young for proofreading.

WBA 2009 conference and AGM

See information on page 15.

Radiotherapy underdosing at Royal Adelaide Hospital

In the April issue, the compellingly written story of radiotherapy underdosing at Royal Adelaide Hospital was run under the pseudonym Geraldine Macdonald.

The author is now willing to reveal her real name. It is Lotte Fog.

All issues of *The Whistle* are available on the web. Put "Whistle Whistleblowers Australia" into Google to find the page.

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.

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

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

Send memberships and subscriptions to Feliks Perera, National Treasurer, 1/5 Wayne Ave, Marcoola Qld 4564. Phone 07 5448 8218, feliksperera@yahoo.com