

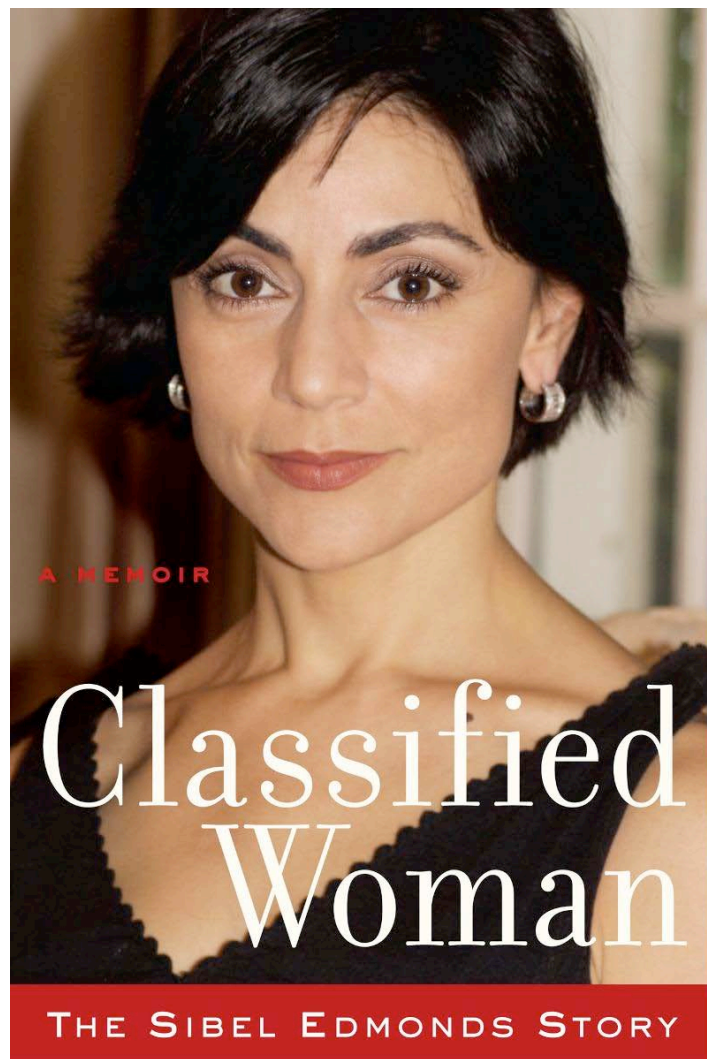
*"All that is needed for evil to prosper is for people of good will to do nothing"*—Edmund Burke



# *The Whistle*

No. 75, July 2013

Newsletter of Whistleblowers Australia



### PS workers face more scrutiny of behaviour

Noel Towell  
*Canberra Times*,  
27 May 2013, pp. 1–2

NEW information-sharing powers for public service bosses will mean federal government workers face more scrutiny of their behaviour, attendance and even web browsing. Looming public sector legal reform will allow senior management to share workers personal information across agencies for use in misconduct investigations and hiring decisions.

The new powers are part of a suite of changes to the Public Service Act that will give the bureaucracy a much tougher disciplinary edge from July 1. Under the new rules, an agency head may use personal information where the use is necessary or relevant to the exercise of the agency head's power as an employer, a considerable widening of the scope of the rules.

Previously, bosses were allowed to use or share personal information only when they could show it was necessary. But from July, information about an employee's misconduct record and any sanctions imposed could be used when considering a job application, promotion or a move between agencies.



Information supplied as part of a job application could be retrieved and used in misconduct investigations and computer log-in records could be used to check if a worker is showing up to work or accessing unauthorised records. Personal information could also be used to detect the use of inappropriate websites.

Other changes to the public service code of conduct will extend bosses' power to punish staff for off-the-job

misbehaviour, including conduct on Twitter and Facebook. A new clause will make employees liable if they have not acted with honesty and integrity during the hiring process. Employees can now be disciplined for misconduct action ... where a person has provided false or misleading information in connection with their engagement as an APS employee, i.e. pre-commencement misconduct, according to the advice.

The code of conduct will apply in connection with the employee's employment, rather than only in the course of employment, with the commission pledging that the code will not seek to regulate employees' private lives. Bosses would have to prove a genuine link between the worker's job and their behaviour before any punishment could take place. Sanctions available vary from a simple reprimand through to fines, demotions and dismissal.

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### Cash for no comment tramples free speech

Richard Ackland  
*Sydney Morning Herald*,  
31 May 2013, p. 33

BEND over and take your cuts. The headmaster is dishing out the cane to a variety of backsides, most of whom don't deserve any punishment at all.

The law and justice community is not immune from the pounding. Front-line community legal centres (CLCs) are the latest to be whacked, with cuts ranging from 27 per cent for the Environmental Defenders Office — punishment for taking action against mining interests? — to 18 per cent for the Public Interest Advocacy Centre — punishment for a big disability case against RailCorp?

CLCs are organisations that represent the most vulnerable and disadvantaged. To a large extent they take the pressure off Legal Aid with civil and family law work and are partly funded through the Commonwealth, Legal Aid's budget and a milch cow called the Public Purpose Fund (PPF).

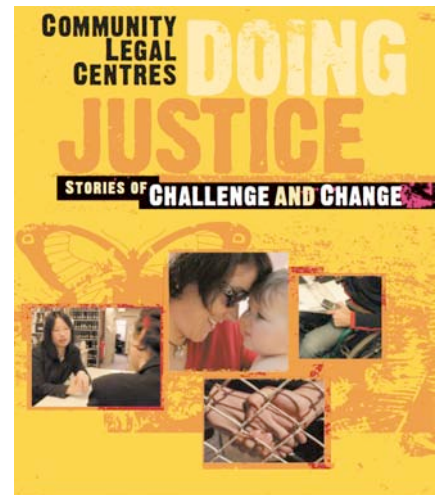
Overall, the centres have received budget cuts from the PPF component of 10 per cent across the board and more for specific programs such as for training, the Aboriginal legal access service and the child support access service.

Legal Aid has also received a \$10 million budget cut for next year.

What is as troubling as the shrinkage of funding for the most disadvantaged is a state government edict that whatever money is available is conditional on a cut in the free speech of the CLCs.

This little provision is set out in a government document called "Principles for Funding of Legal Assistance Services" and it says "funding will not include activities which may reasonably be described as political advocacy or political activism". This includes lobbying, advocacy by "traditional and social media", rallies and demonstrations for "causes seeking changes to government policies or laws".

This affects some CLCs more than others. CLCs that are advocating law reform are much more worried about the fallout from the no lobbying, no campaigning requirements.



There are some salutary examples on hand. The south-west Sydney and Marrickville legal centres are jointly involved in a project directed at what they regard as unfair practices by private car parking operators. They say there are about 200,000 car owners who have been subject to relentless and "questionable" debt collection

methods. To remedy the situation involves lobbying relevant government officials.

CLCs were also active in lobbying for reform of legislation affecting tenants in boarding houses. Many others have repeatedly raised concerns about injustices in the bail laws. The Illawarra Legal Centre is running a class action against the Commonwealth in relation to the alleged ineffectiveness in collecting child support and child maintenance through the Child Support Agency.

The state did request the Commonwealth add the same free speech restrictions to its funding agreements, but Attorney-General Mark Dreyfus refused.

Consequently, an attempt to run a media campaign to publicise the child support issue may not attract official reprisal.

NSW's "principles for funding" follow an unhappy history of government outlays being made conditional on recipients keeping schtum. Even though Liberals have now redecorated themselves as the saviours of free speech, it was a particular device in vogue during the Howard era.

You might remember that, at one point, in order for charities to qualify for GST education and training funding, they were asked not to criticise the GST. A clause in the training contract said organisations must favourably acknowledge the contribution of the Commonwealth.

Then, in 2003, the Howard government recruited the IPA (Institute for Paid Advocacy) to do a study of welfare and aid organisations who received Commonwealth money. The government was seeking to create new requirements about "acceptability" for funding or tax breaks.

Then treasurer Peter Costello also raised the spectre of tax penalties for charities that offended government sensibilities.

The latest development is opposition foreign affairs spokeswoman Julie Bishop's campaign to turn off government dollars for individuals or organisations that speak out against Israel, specifically those who publicly support the Boycott, Divestment and Sanctions campaign.

Three Australian-Jewish academics have said they deplore Ms Bishop's

"outrageous ... and anti-democratic" policy.

The "no pay if we don't like what you say" agenda is not confined to the Liberals. Late last month the Gillard government stumped up \$350 million of industry help for the Tasmanian logging industry.

It is part of a restructure subsidy, compensation for displaced workers, paying out forest contracts and managing new timber reserves. All very good.

However, there is also what is known as a "durability" clause in the funding contract, which requires the environmental movement stop protesting about native forest logging. *The Australian Financial Review* drew attention to this free speech stomp, but it has gained little traction elsewhere.

Not only are the Australian Conservation Foundation, the Wilderness Society and Environment Tasmania expected to lay down their placards, but they are supposed to silence other protesters.

Prime Minister Julia Gillard said as much herself: "The obligation is on the signatories ... to do everything they can to use their abilities to silence those who haven't gone with the mainstream consensus."

Richard Denniss, of the Australia Institute, says the consequence of disobedience is that if either house of the Tasmanian Parliament believes there has been a "substantial active protest" then forest reserves will be reopened for logging.

We're on the threshold of an exciting new era — cash for no comment.

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## One man faces the machine

Bradley Manning's treatment is a warning to all would-be leakers that they risk death or life in jail, writes

**Paul McGeough.**

*Sydney Morning Herald,*

8 June 2013, News Review p. 10

THE Obama administration is going for broke in the case of Bradley Manning, the perpetrator of the biggest leaking of classified documents in US history — but at the end of the first week of the trial, it seems that Washington is flogging a dead horse.

The pint-sized Manning arrives at court some mornings sandwiched between two seemingly enormous military guards, and so looks more like a schoolboy being hauled before the headmaster. And arguably he has given the "headmaster" what he wants — in admitting that he leaked the 700,000-plus diplomatic and military papers he has pleaded guilty to about half of the charges against him and says he'll do 20 years in jail.

Nope. The prosecution is pressing ahead, determined to see Manning convicted on the charge that he "helped the enemy," which is punishable with death, but in the case of the former military intelligence analyst, the prosecution says it would settle for life behind bars with no chance of parole.



Bradley Manning

The question then, is why?

Media lawyers see it as an attempt to establish a chilling precedent — a warning to all would-be leakers of national security information that they would be risking lengthy solitary confinement, as endured by Manning, and the prospect of death or spending the rest of their life in jail.

Describing as "ruthless" the administration's pursuit of "anyone who releases any information or talks about government malfeasance or the abuse of power," former US Army colonel and diplomat Ann Wright told Fairfax Media: "The government wants to put an end to whistleblowing."

The "helping the enemy" charge is under the 1917 Espionage Act — used just three times in its first 92 years, but used six times in Obama's first term as president.

Manning's court martial coincides with a realisation by many Americans of two surprising aspects of the Obama presidency — it is intensely secretive and more zealous than any of its predecessors in guarding that secrecy.



Here, the government appears to be relying on a level of public apathy that dovetails with the military notion that, more often than not, the military does not have to explain itself.

None of this sits easily with the notion that this is the President who first campaigned to be Commander-in-Chief telling Americans that he would be the whistleblowers' new best friend and that he would preside over "a new era of open government."

Oddly the US media is not hugely interested in the Manning trial. Reports on the opening could not command page one in *The New York Times* or *The Washington Post*, despite both newspapers incurring the legal wrath of the Nixon administration in the previously most celebrated case of leaks and government secrecy — the Pentagon Papers sensation of 1971.

Back then Washington pursued the publishers — which were newspapers. And newspapers were critical in publishing the contents of Manning's data dump, but this time there was a vital middleman — the WikiLeaks anti-secrecy entity, founded by Australian Julian Assange.



The prevailing atmosphere might be expected to put air beneath the wings of the Manning defence — the Obama administration is under fierce attack because of overly zealous snooping by the taxman; its rottweiler-like pursuit of leakers, which includes seizing reporters' phone records and describing the conventional practice of journalism as breaking the law — either by conspiring with a leaker or by aiding and abetting them.

In the same vein, the trial proceeds against a backdrop of bipartisan political anger at the shortcomings of the military justice system in dealing with endemic sexual abuse and harassment across all arms of the services.

For all that, this trial and the aggressive posture of the White House are

remote from the balance struck in the Pentagon Papers case.

On the one hand, there was Justice Potter Stewart: "It is elementary that the successful conduct of international diplomacy and the maintenance of an effective national defence require both confidentiality and secrecy." And on the other, Justice Hugo L. Black: "The guarding of military and diplomatic secrets at the expense of informer, representative government provides no real security for our republic."

The trial itself is an exercise in military-minded secrecy — reporters and the public are made to jump through hoops merely to be present; and for as many as one-third of the prosecution witnesses, the press and spectators will be ordered out of the court; photographers outside the court are blocked from getting images of Manning; photographs and documents tendered in court are withheld, to be released seemingly at the whim of the court or its staff.

And on the opening day of the trial, here, in the land of free speech, US Army guards at the court ordered Manning supporters to turn their "truth" T-shirts inside-out before allowing them into the tribunal.

In the Manning case, Military Judge Colonel Denise Lind gives away little. Some thought a smile creased her face when she addressed the defendant on the opening day, but Manning supporters are more struck by the fact that she had allowed just one of about 100 defence motions in proceedings to date.

However, she had issued a preliminary ruling in which she deemed the extent of any damage caused by the Manning leak to be immaterial.

Government spokesmen, including former secretary of state Hillary Clinton, would have us believe that the sky fell in the aftermath of the staggered leaks, but when the rhetorical angst was put to one side, it seemed that the consequence of the leaks was limited to a hefty dose of embarrassment in Washington.

No American supporter of democracy could complain about their purported role in firing up the anti-regime resentment that fuelled the Arab Spring revolutions and by its own admission, Washington has not been able to link the death of any

American or any of their Iraqi and Afghan helpers to the Manning leaks.

The prosecution has marshalled a small army of witnesses — more than 140. But some of the first dozen or so spoke well and constructively of Manning or offered insights that complicated life for the prosecution more than they did for the defence.

"Very neatly organised, very categorised — I've seen a lot of soldiers but not to his level," said Chief Warrant Officer Hondo Hack, describing Manning as one of the best soldiers to work under his command.

There was a major embarrassment for the prosecution when one of Manning's senior analyst colleagues revealed they had not been warned about websites that al-Qaeda and the other insurgent groups used as sources of information.

"It is general information that they go on all sorts of websites," Captain Casey Fulton explained before rattling off a list that included Facebook and Google — but not WikiLeaks.

It remains to be seen if Fulton's evidence will be deemed to be above or below the bar set by the judge when she ruled in a pre-trial decision that the prosecution must show that Manning had "actual knowledge" of himself "actually giving intelligence to the enemy" through "a third party, an intermediary or in some other indirect way."



In particular, the prosecution had to show that Manning had "a general evil intent" and to have been aware that he was "dealing, directly or indirectly, with an enemy of the US." In this the judge seems to agree with Bill Keller, a former managing editor of *The New York Times*, when it was one of several

newspapers worldwide that teamed up with WikiLeaks to publish the Manning leaks.

This year Keller was withering when he wrote of the prosecution: “If Manning’s leak provided comfort to the enemy, then so does every news story about cuts in defence spending, or opposition to drone strikes, or setbacks in Afghanistan.”

Did Manning ever say that he wanted to “help the enemy” — “not in those words, no,” said the convicted hacker Adrian Lamo, to whom Manning had first owned up to the leaking and who, within 24 hours, had dobbed him in to military intelligence.

And surely there was some evidence of Manning’s terrorist tendencies on his computers? Mark Johnson, a forensic digital examiner on contract to the US military, said that none of the material found on the computers related to terrorism or “indicate a hatred of America.”

Former army colonel Ann Wright works with the Bradley Manning Support Network but is not privy to the defence’s deliberations, said of the week’s evidence: “No one has been able to link Manning to wanting to get stuff to Osama bin Laden.”



Ann Wright

But she took little comfort from the seemingly powerful testimony, saying: “I expect the judge will find him guilty — and then there will be appeals that will last for years. The thinking in the military establishment is if she doesn’t put him away for a long time, then she’s not doing her job.”

Intriguingly, the government is limiting its sense of the potential audience for the WikiLeaks material to terrorists — “the enemy.” Observing the trial, American Civil Liberties Union lawyer Ben Wizner found this striking, citing the Abu Ghraib torture pictures as he told *The New York Times*: “Sometimes what may be

helpful to the enemy is also indispensable to the public in a functioning democracy.”

## State takes the lead by exposing quacks in our health system

Des Houghton

*The Courier-Mail*, 20 April 2013, p. 60

I WAS proud to be a journalist this week.

In an unprecedented move, the entire medical board will be axed. Queensland will get a specialist health ombudsman.

This follows a long campaign by this newspaper to expose incompetence and wrongdoing by medical practitioners.

We could not have reported the tragedies and cover-ups without a handful of courageous whistleblowers who dared to tell the truth.

Toni Hoffman and Christine Cameron are career nurses while Jo Barber was a medical board investigator and a former detective.

Each had a burning desire to tell the truth about failures in the medical system that caused harm to patients in their care.

They were brave enough and impolite enough to point out the health watchdogs had no teeth.

Health Minister Lawrence Springborg and AMA [Australian Medical Association] chief Dr Alex Markwell used the same phrase recently when they said many genuine complaints “fell through the cracks.”

We’ve been saying that for years.

Now Parliament has been told that five doctors face prosecution.

The whistleblowers all suffered for speaking out.

By doing so, they did much more than provide comfort to the walking wounded and families who lost loved ones to medical blundering.

The whistleblowers succeeded in changing the system.

Springborg this week moved to demolish the Queensland Board of the Medical Board of Australia, one of the bodies which investigates complaints.

The dramatic changes to the administration of health complaints in this state followed malpractice revela-

tions in *The Courier-Mail* and *The Sunday Mail*.

Our reporting forced an investigation by the Crime and Misconduct Commission and a series of inquiries and reviews by retired judges, doctors and nurses.

They all found evidence of wrongdoing.

Cases of doctors engaging in conduct ranging from criminal negligence to gross incompetence and laziness were revealed in documents tabled in Parliament.

It was hardly news to readers of *The Courier-Mail*.

The inquiries all pointed in the same direction: Queenslanders were let down by the system, public and private.

The latest inquiry made some astonishing findings.

An investigative panel headed by barrister and former intensive-care nurse Kim Forrester reported that in one case it took 2368 days, or nearly 6 1/2 years, to reach a decision following a complaint.

The Forrester report tabled in Parliament said 60 per cent of the files it examined were not handled in a manner that was timely and/or appropriate and/or in compliance with legislative objectives.

Give the Borg his due. He acted swiftly.

Previous health ministers who must have known of many of these gross failures either turned a blind eye, buried their heads in the sand or shoved the cases in the too-hard basket — pick your own cliché.



Lawrence Springborg

Springborg said victims of medical mishaps had been treated appallingly.

He used words such as “disturbing” and “outrageous.”

The Forrester report was tabled alongside the findings of senior lawyer Jeffrey Hunter, who recommended that police consider criminal charges against six medical practitioners.

“These reports paint a deeply disturbing picture of dysfunctionality in the handling of health-related complaints,” Springborg said.

“In a majority of cases, delays meant that doctors ... continued to practise without their competency being assessed and in the absence of safeguards, supervision or monitoring.”

The Forrester report also was a stinging rebuke of the role of the Australian Health Practitioner Regulation Agency, a federal body.

Said Springborg: “In relation to the appropriateness of decisions, the Forrester panel found clear evidence that in processes followed by AHPRA, the Medical Board did not provide adequate protection for the public.”

He said work on the two reviews was delayed when AHPRA and the Medical Board initially declined to release the relevant files due to confidentiality and privacy concerns.

“I will discuss the ramifications of these findings with my fellow state health ministers and the Commonwealth Minister,” Springborg said.

So federal Health Minister Tanya Plihersek has now been dragged into the controversy.

Will she insist AHPRA explain why it initially refused to co-operate with the Queensland investigations? Did the delays cause further suffering to patients?

And what is happening in other states? No one could believe the only incompetent doctors practise in Queensland. It’s a national problem.

Springborg said legislation to create a national regulatory scheme for health professions across Australia supplanted state-based arrangements in 2009.

He has expressed doubts about the federal agency’s transparency and accountability.

“There is much to gain from a uniform national approach to credentialing and registration. But it has to be underpinned by an effective and accountable complaints referral, han-

dling and investigation system,” he said.

It’s not the end of this story; it’s just the beginning.

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## **Warning: blowing the whistle could mess up your life**

In the US, the law is geared to protect and reward informants, but in Australia, they end up jobless and traumatised, writes **Ruth Williams**.  
*Sydney Morning Herald*,  
15 June 2013, pp. 6–7

WHEN US nurse Laura Davis first triggered concerns her employer, Dialysis Corporation of America (DCA), was overbilling taxpayers for medicines, she was greeted with puzzlement by her colleagues.

“Laura Davis raised concerns ... internally, but no one listened to her,” her lawyer, Stephen Hasegawa, said last month. “They thought she was a little strange to care that the government was being overcharged.”

So Davis took matters into her own hands. After engaging a no-win, no-fee law firm, she pursued the company on behalf of the state — the right of every would-be whistleblower in the US.

After hearing her story, the US Department of Justice stepped in and joined the lawsuit. Last month, it announced DCA had agreed to pay \$US7.3 million (\$7.7 million) to settle the action.

And Davis? She collected more than \$US1.3 million for her trouble.

In 2008, the same year Davis began her legal action, a group of whistleblowers in Australia contacted the corporate regulator here about a case of alleged misconduct.

As detailed in a BusinessDay investigation this month, they tipped off the Australian Securities and Investments Commission (ASIC) about the activities of former Commonwealth Bank (CBA) financial planner Don Nguyen, who was eventually banned from working in financial services.

But after sending a detailed, anonymous fax to ASIC in 2008, nothing happened. They then tried sending letters and emails. The regulator sat on the information for 16 months, as the losses suffered by the planners’ clients

mounted. Eventually, the whistleblowers went to ASIC in person — a move that finally sparked action.

Their actions helped ensure CBA clients received more than \$36 million in compensation. But it left the whistleblowers stressed and disillusioned.

ASIC has defended its performance in a “large and complex matter,” saying its action against CBA’s planning division was a “landmark achievement.”

But a member of the group, Jeff Morris, remains unimpressed. “When you choose to tread the path of the whistleblower, you knowingly take arms against a sea of troubles. What you don’t expect though is for the odds against you to be lengthened by a Monty Pythonesque regulator.”

Morris’ frustrations are echoed by other Australian corporate whistleblowers and their supporters, who say the system — including the whistleblower protections in place under the Corporations Act — actually discourages action and inflicts considerable stress on those who do come forward.

The list of corporate blow-ups in Australia sparked by or involving whistleblowers is long and spectacular — Coles Myer-Yannon, AWB [Australian Wheat Board] and oil-for-food, NAB’s [National Australia Bank’s] rogue traders, and Multiplex’s Wembley Stadium debacle to name a few.

Several of these scandals sparked significant corporate law and regulatory reforms.

Yet Morris and his fellow CBA whistleblowers — who dubbed themselves “the ferrets” — were just the latest to be left bruised by their experience.

Often “their careers are destroyed, no question about it,” says Kim Sawyer, from the department of historical and philosophical studies at the University of Melbourne. “It means there’s such a disincentive for people to blow the whistle.”

Morris says: “It would take an impossibly good man to be a whistleblower under the current system unless they are acting in ignorance.”

A recent example was Brian Hood, who exposed corruption at the Reserve Bank’s currency printing subsidiaries. He was ignored and victimised after sparking concerns internally, and then



forced out of his job. He told the Melbourne Magistrates' Court last year of the "relentless pressure" and stress he was under, and the "friction" in his dealings within the company. "I was becoming increasingly isolated," he said.



Brian Hood

Whistleblowers Australia national president Cynthia Kardell says, "I don't think people generally understand that whistleblowing is a harrowing business. It changes your life forever."

Jeff Simpson, an accountant who tried to warn the prudential regulator of the goings-on at HIH before its spectacular implosion, says, "The people who stand up just get belted up for it through the legal process."

Ben Phi, a lawyer with Slater & Gordon who has worked with whistleblowers, says, "You are essentially asking private individuals to step up and be a hero. It is not conducive to an environment that encourages people to come forward and report wrongdoing."

Protection for public servant whistleblowers has come under scrutiny in recent years, as the federal government has edged forward on promised new laws that are now before Parliament.

But the protections offered to private sector whistleblowers under the Corporations Act were last updated in 2004, despite the Rudd government talking up potential reforms in 2009.

The laws protect whistleblowers who come to ASIC from being sacked, and from criminal and civil liability — including potential breach of confidentiality suits.

But in 2009, the Rudd government revealed that just four whistleblowers in five years had claimed protection and given evidence to ASIC.

Then corporate law minister Chris Bowen described the protection laws

as "poorly regarded and rarely used," saying they contained "fundamental shortcomings."

The laws prevent former employees, for example, from claiming protection, along with business partners and anyone wishing to act anonymously.

A consultation process was launched, along with a Treasury paper that itself criticised the protections in place — especially a requirement that whistleblowers must be acting in "good faith" to receive protection.

Originally intended to prevent maliciously fabricated accusations, this rule "exaggerates the importance of motive," Treasury argued, and left victimised and aggrieved employees vulnerable to having their motives questioned.

Yet it went nowhere. The consultations "did not reach consensus on the need for or form of further reforms," a spokesman for Bernie Ripoll, parliamentary secretary to the Treasurer, said this week, adding that "there was also little evidence to suggest that the existing [framework] was not operating as intended."

Ben Phi says those who do come forward are often kept in the dark about what is happening with their evidence.

It is, he says, a "common complaint," and one voiced by Morris and the ferrets at CBA.

A further issue is that whistleblowers who provide evidence for class action suits are not protected at all, leaving them vulnerable to injunctions and being sued for breach of confidence.

The government and the opposition are being urged not only to better protect corporate whistleblowers, but also to consider paying them. The Australian Federal Police Association, the Tax Justice Network, whistleblower supporters and academic experts are among those calling for new laws modelled on the False Claims Act — the US law used by Davis, and hundreds of other whistleblowers, to help recoup billions of dollars for the US government.

The idea is being looked at by the Attorney-General's Department.

"The [department] is currently considering the merits of an Australian scheme modelled on the US False Claims Act and how the scheme could

best be adapted for the Australian legal context," a spokesman said. "The department has undertaken consultation with key stakeholders regarding this issue."

The opposition declined to say whether it would consider new laws, or whether it believed reforms were needed to better serve corporate whistleblowers. "We have made no such announcement," a spokesman for shadow attorney-general George Brandis said. "The Coalition's policies will be announced between now and the election."

The police association has been urging both parties to examine False Claims Act-style laws since 2010, believing they could be a valuable new tool to combat corruption and fraud in government contracts.

"If [fraud] has been carefully orchestrated in the first place, it's very hard to detect — it's only through someone coming forward that we'd even know about it," national president Jon Hunt-Sharman says.

"People are reluctant to come forward about private companies because they risk losing their jobs. This counteracts that by saying you might lose your job but you will be compensated for being honest."

The Tax Justice Network, a not-for-profit group that campaigns for tax reforms, believes similar laws could crack open significant cases of tax evasion through the use of havens and shell companies.



Advocacy and support group Whistleblowers Australia hopes it can change the way informers are perceived and treated. "It would give the whistleblower a far better image, and it would encourage people to come forward if they could be seen not as a grubby dobber but as someone assisting an inquiry," Kardell says.



Abraham Lincoln

The False Claims Act, created by Abraham Lincoln during the Civil War to combat burgeoning fraud against the government, then bolstered in recent decades by presidents Ronald Reagan and Barack Obama, allows private citizens to launch legal action alleging fraud against the state — known as a “qui tam” suit — and to share between 15 per cent and 30 per cent of any settlement or penalties recouped as a result.

Crucially, once a whistleblower’s claim is lodged with the court, the file is sealed — meaning not even the company or business accused of wrongdoing knows about it. The Department of Justice then examines the case and decides whether to join the action. Even if it does not, the whistleblower can still proceed alone, although the chances of success are much lower.

Most cases settle before they go to trial.

The laws, supporters say, compensate whistleblowers for their actions, and recognise that those actions often come at a significant financial and personal cost.

It has been lucrative for all involved, including no-win, no-fee law firms — all except the companies targeted, of course.

A record-breaking \$US4.9 billion was recovered under the act last year, and 647 “qui tam” suits were lodged. Whistleblowers shared in \$US439 million worth of rewards last year; since the 1986 reforms to the act, they have been awarded nearly \$US4 billion. According to oft-cited figures,

the False Claims Act recovers \$US15 for every \$US1 spent on investigations.

The act has been particularly effective in exposing fraud in healthcare. Last year, GlaxoSmithKline paid \$US1.5 billion to settle multiple allegations, including that it promoted drugs for uses not approved by authorities. Merck paid \$US441 million over claims it made inaccurate, unsupported or misleading statements about the safety of painkiller Vioxx.

Little wonder then that the federal police association and others want similar laws introduced in Australia. Hunt-Sharman says fraud and corruption involving government contracts is “an area of criminality that we just don’t know how big it is. From the experience in the US, we know they have recovered billions of dollars.”

While the False Claims Act covers government contracts, the Dodd-Frank laws passed in 2011 allow for the Securities and Exchange Commission to grant rewards to whistleblowers reporting market-related crimes. And the Internal Revenue Service (IRS) has a similar whistleblower scheme for tax fraud; it led to a notorious \$US104 million payout to former UBS banker Bradley Birkenfeld who exposed the Swiss bank’s tax-evasion schemes conducted on behalf of thousands of US clients.



Birkenfeld was himself convicted of the conduct he exposed, and sentenced to 40 months in prison, sparking debate about whether he deserved his hefty payout. Yet his actions helped the IRS recover more than \$US5 billion in back taxes, fines and penalties for the US government.

“It has to be only a question of time until we have a system like this here,” says Thomas Faunce, a law and medicine professor at the Australian National University and a long-time advocate of a False Claims Act-type law in Australia.

But while the US has embraced it with gusto, the concept of financially rewarding whistleblowers remains controversial in Australia, with the idea having been considered and dismissed by successive parliamentary inquiries.

More than two decades ago, a federal inquiry on insider trading firmly rejected the idea of “bounties,” finding it was incompatible with Australian society and would cast doubt on the credibility of evidence given by whistleblowers.

This decision was cited in 2009 by a federal inquiry examining public sector whistleblower laws, which heard evidence that rewards could lead to false or frivolous claims and send the wrong signals.

This inquiry did not recommend for or against financial rewards, instead calling for a focus on the “removal of disincentives” to blow the whistle, and for whistleblowers’ contributions to be recognised in Australia’s honours system.

The threat of malicious former workers selling false information is one of the most-cited arguments against offering rewards. But, as Dr Mark Zirnsak, from the Tax Justice Network, argues, “If somebody makes a baseless claim, they are not going to get any reward.”

The so-called bounties for whistleblowers “have the obvious downside that it is premised on whistleblowing being motivated by monetary reward, rather than the best interests of the organisation that they are in,” Melbourne University corporate law expert Ian Ramsay says. But he adds that “those two aren’t necessarily inconsistent.”

“You can have someone motivated to act in the best interests of the company when they are thinking about whistleblowing, but the financial incentive can provide additional incentive.”

With the elections looming, it remains to be seen whether the work by the Attorney-General’s Department



on the False Claims Act is taken further by either of the political parties.

Simpson believes financial rewards are not the answer.

“You have got to come back to why people raise the issue — it’s a good thing to do, it’s a right thing to do,” he says.

He believes cultural change within companies and society is the best way to make life easier for whistleblowers — a term he dislikes. “If you can build up a culture where it’s OK to raise these issues and have them addressed, then you are going to overcome that problem for the people who do raise issues.”

Simpson says while whistleblowing is not a career-enhancing move, it can be rewarding.

But if the concept of financially rewarding whistleblowers remains contentious, the idea that a private citizen could effectively act as a quasi-regulator and bring an action themselves — as under the Fair Claims Act — is another step altogether.

The concept is “a little bit alien” to Australia, Ben Phi acknowledges.

“But that’s not to say that debate should be shut down,” he says. “It’s important to have that debate about what form encouragement for whistleblowers should take, whether it’s the provision of positive incentives or the removal of disincentives. What’s in place is not good enough.”



Ben Phi

## RAISING THE ALARM

### The Westpac letters scandal, 1991

John McLennan, a former internal auditor with Westpac, exposed letters from Westpac’s lawyers, Allan Allan and Hemsley, to the bank containing a damning assessment of off shore banking malpractices within Westpac subsidiary Partnership Pacific over-handling of foreign-exchange loans between 1984 and 1987. The bank retaliated by suing him for breach of copyright and confidentiality.

Westpac settled with him 18 months later.

### The Yannon affair, Coles Myer, 1995

Philip Bowman was a financial director at Coles Myer when he claimed the company’s then chairman Solomon Lew had used a shelf company called Yannon to buy shares in his own investment company, Premier Investments. After five years of investigations, the Federal Director of Public Prosecutions said in 2000 it would not press charges against Mr Lew.

### HIH Insurance collapse, 2000

Jeff Simpson was a manager in HIH’s financial services division.

He outlined grievous problems at the insurance company to the banking regulator nine months before it collapsed owing \$5.3 billion.

The accountant said in a 21-page document to the regulator that the company was breaching minimum solvency provisions.

He claimed in court the regulator, APRA, did not respond.

### NAB’s [National Australia Bank’s] rogue trader scandal, 2003

Dennis Gentilin and Vanessa McCallum were junior traders who exposed a \$360 million foreign exchange scandal involving rogue traders led by David Bullen and Luke Duffy. The trading team had placed shonky deals that falsified the profit they had made trading in currency options. The trades made it appear as if NAB’s foreign exchange desk had met its profit targets for the 2003 financial year.

### AWB [Australian Wheat Board] oil-for-food scandal, 2006

Mark Emons, the regional manager of AWB’s Middle-East section, exposed the wheat board’s \$300 million Iraqi kickbacks scam during the 2006 Cole Inquiry. He said knowledge of bribes and kickbacks to Saddam Hussein went to the very top of the Australian wheat exporter. Mr Emons had helped devise a system for AWB to pay “trucking fees” to Iraq, in breach of United Nations sanctions.

AWB claimed the fees back from the UN’s oil-for-food fund but, as the 2006 Cole Inquiry found, the “fees” were bogus and were corrupt side-payments.

### Reserve Bank Secrecy scandal, 2012

Brian Hood helped level foreign bribery allegations against senior officials of two Reserve Bank subsidiaries. He claimed long-held concerns about kickbacks were steadfastly ignored and that the Reserve Bank was aware of them as far back as 2007.



### Support for ferrets

Letter to the editor, *Sydney Morning Herald*, 3 June 2013, p. 23

I find it depressing that we have whistleblowers in our midst yet they all say they lack support when performing their role. Jeff Morris and the “ferrets” should be applauded for their efforts in bringing a rogue to book, with no thanks to the bank’s hierarchy and ASIC. I want to see much stronger laws to protect whistleblowers and mandatory prison sentences for those who set out to punish them.

**Alastair Browne**

### So you're thinking of blowing the whistle?

Robina Cosser

THE majority of the people who contact me through my websites are teachers. Teachers are not dealing with life and death issues, so, although they believe that what has happened to them is outrageous and that people will be amazed to hear their story, in fact they seldom fit the standard definition of a whistleblower: they are people with a grievance. Usually they are experienced teachers who have tried to raise some issue with their school principal — maybe a concern about discipline or a teaching method that they think is ineffective. The principal has responded by putting them into a punishment process. The principal's abuse of this process puts the teacher under great stress, they become ill and they appear to be being driven out of work. The teacher makes an official complaint of some sort — a grievance or a WorkCover complaint. The complaint is not substantiated, and so they contact me. The teacher thinks that what is being done to them is amazing, and that other people will be astonished to hear their story. They attach copies of many, many letters that they have sent out to senior public servants, ministers, etc.

The first thing I ask these teachers to do is to make a one-page document, explaining very simply and clearly what has happened, paying particular attention to how the situation began. I advise them to attach that one-page document to the bottom of all of their emails, keeping the emails themselves as brief as possible. The teachers don't realise it, but their case is not unusual — there are many other teachers all over Australia struggling with this sort of treatment, and, sadly, nobody has time to read all of their letters and documents.

Then I usually ring the teachers and talk the situation over. I advise them that there is no hope of getting the official grievances and disclosure processes to work. Teachers often find

this hard to believe, so I tell them that ten years ago I, too, was given this same advice and I, too, could not believe it. So I tried full-time for several years to get some logical response to my disclosure — and it was like trying to communicate with a mincing machine. I put in my evidence and I got minced-up nonsense in response, over and over again. So then I applied under Freedom of Information for the records of the Crime and Misconduct Commission and departmental investigations into my disclosure. And I discovered that my disclosure had been minced up — that it had been “lost” or falsified, that the records of my phone conversations with CMC officers had been falsified, that the people I had mentioned in my disclosure had been allowed to investigate themselves, that decisions were based on secret reports, all copies of which were “lost” when I applied for them under Freedom of Information, etc. And I eventually realised that the senior officers I was “disclosing” the corruption to probably already knew what I was disclosing. And that the only purpose of their official process was to shut me up. And, when I would not shut up, they instructed each other to file my emails without reading them — so nobody could be held responsible for “knowing” what I was disclosing.

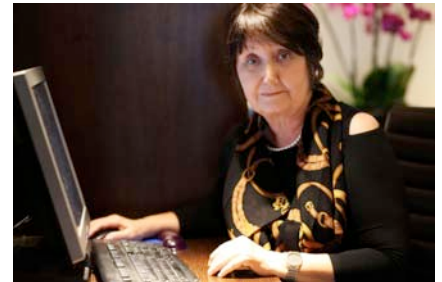
I advise the teachers not to waste their time and energy on a process that is designed to fail. I advise them to focus on their need to work, to earn a living. Can they salvage their teaching career? Get a transfer? Work overseas? Have they got enough money to retire? Could they study law? Could they do some research into workplace bullying?

These teachers need a plan. They need hope.

The few who contact me who fit the conventional image of a whistleblower are usually nurses, doctors, hospital staff or other public servants. They want to disclose some harm that is being done to patients. Ideally I would “hand them on” to a nurse or doctor who has expertise in their area, but the

sad fact is that there are so many problems in our hospitals that experienced medical whistleblowers are being overwhelmed by the numbers of people wanting to contact them.

So I do my best.



Robina Cosser

These whistleblowers are usually younger than the teachers, and they will need to work for several years after they have blown the whistle. I warn them that “payback” allegations will almost certainly be made against them, and attempts will be made to drive them into ill health and out of work. I advise them not to discuss their disclosure with anybody, or the payback process will begin. I advise them that the whistleblowing process is not something that will be over in a few months, it will go on for years, so they should take their time to gather as much documentary evidence as possible before they blow the whistle. They will probably not be able to afford legal support, so they should consider studying law. They should make preparations to move to another job or even another career. After they are safely established in another job, they can decide if they have enough documentary evidence to support their disclosure. If they do have enough evidence, I advise them that evidence disclosed by email or letter will almost certainly be “lost” or falsified, and the records of any meeting may also be falsified, so the best thing to do is to put their disclosure and documents on a website (<http://www.webs.com/>) so that they cannot be “lost,” falsified or “misunderstood.” The whistleblower can protect the website with a simple password and they can send the password to the director-general, government minister, local member of

parliament — anybody who seems to have some integrity — with a very brief outline of their disclosure.

I explain that public servants will usually only read the first few sentences of a disclosure, then they twiddle those sentences around and send them back to you — “Dear Madam, thank you for your letter concerning ... unfortunately ...” This sending-you-back-to-you process seems to be automatic.

But if you have your disclosure and your documents on a website, and if everything is very simply and clearly organised, there is the suggestion that you might go to the press. That suggestion might get some attention.

But not make the suggestion yourself. Do not do anything that could be described as threatening. Do not do anything that could be used to make you appear to be unstable.

And do not be fooled by charming re-assurances. There will be many charming re-assurances. Say you want to see real change.

The chances of real change are actually very, very low. But at least you will feel that you have “done your duty.”

I warn them that very few whistleblowers seem to have any real success. And that those whistleblowers who do have some success usually have a legal background.

The huge majority of whistleblowers who contact me have been born overseas in one of the “old colonial” countries — England, Scotland, Canada, America, South Africa, India, Sri Lanka. They have been brought up to hold old colonial values — to “tell the truth and shame the devil.” They believe that “a man is as good as his word,” that they should stand up and defend weaker members of the community, etc.

These old colonial migrants to Australia are doomed to be whistleblowers because their values are in conflict with the dominant Australian values — “go with the flow, don’t rock the boat.” People who try to discuss professional issues are seen as troublemakers in Australia. And troublemakers have to be driven out of work and destroyed.

The official public service policies often seem to be a sham — and

Australian-born workers seem to know this. Australian-born workers seem to know that if they follow the official policies (the policy that teachers should report child abuse by another teacher, for example) they will be attacked and driven out of work. But “old colonial” migrants to Australia do not hear these hidden messages. They believe in the official policies.

So I talk with these whistleblowers about their — our — old colonial values, and the conflict between these old colonial values and those held by Australian-born workers. We talk about the fact that we old colonials just can’t help ourselves — our values are part of “who we are” — and so we have to blow the whistle. If we didn’t blow the whistle about cruelty or corruption we would feel degraded — as if we had become lesser human beings.

Being a whistleblower in Australia consumes your life. You learn things that you would never have wanted to know. But it is interesting — whistleblowers get to understand their world better. They realise that people in power in Australia despise their old colonial values. But still they have no choice. They have to blow the whistle.

Robina Cosser is vice president of Whistleblowers Australia.

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#### BOOK REVIEW

### Classified woman

reviewed by Brian Martin

Sibel Edmonds worked for the FBI. She discovered corruption and reported it — and suffered reprisals. She kept fighting, taking the issue to the highest reaches of the US political and judicial system. The book *Classified Woman* is her story.

If you have any trust in the US justice system, beware! This book shows such deep-seated dysfunction and corruption that any idea of working within the system for change seems forlorn. There is, though, hope in the end.

Edmonds grew up in Iran and Turkey. Her father, a physician, was

outspoken in support of justice and paid the penalty, being arrested and tortured under the regime of the Shah of Iran. Edmonds came to the US, thrilled to finally live in a country where freedom meant something — or so she thought.

While studying at university, she applied for work at the FBI. After years of delay, suddenly she was urgently called to a job. The reason was the attacks of 9 September 2001. Translators were in high demand. The FBI had a huge backlog of intercepts and recorded conversations that needed translation and analysis. Edmonds soon showed her exceptional skills and was called for numerous assignments.

However, not everyone in the FBI welcomed her contributions. She discovered tantalising information about organising of the 9/11 attacks, and indications of a possible future attack. However, her boss did not want to know. Why not? Because if the FBI were shown to have missed some crucial intelligence prior to 9/11, it would make them look bad. So these cases were closed down.



Sibel Edmonds

But it was worse than this. Edmonds discovered that another translator in her area, Melek Can Dickerson, had negligible capacity to understand Turkish, yet was making crucial decisions about which files to ignore. This was despite well-publicised corruption in Turkey involving drug-running, money laundering and the nuclear black market. Those involved had high-level connections in the US,



and were paying them for protection. Dickerson was tied into these corrupt networks and apparently was using her position in the FBI to prevent investigations of key figures involved in criminal activities.

Some of Edmonds' work was sabotaged. On occasions, she came to the office to continue a crucial translation and discovered that lots of it had been lost or garbled, losing days of effort. She tried to find out how that had happened. All trails led to her own supervisor.

Then there were security breaches. You might imagine that, with all the secrecy involved, that the FBI followed protocols closely. Quite the contrary. Files were not locked away like they were supposed to be, so they could just be put in a bag and taken away. Computers were unsecured, so they could easily be accessed or stolen. Many security rules were never enforced.



Grab a laptop while you're at it.

So what should Edmonds have done? She assumed that someone higher up in the FBI needed to know and would address the problem. This is where she went wrong, as do so many whistleblowers. She trusted the system and paid the penalty.

She was warned repeatedly by others in the bureau who sympathised with her concerns but knew from their own experience that it was impossible to change the culture of the organisation. She learned from them of more serious cover-ups. Top US government figures, such as Condoleezza Rice, were saying there had been no information about the impending 9/11 attacks, but this was wrong. High-level figures in the FBI, the CIA and the Defense Department were doing everything possible to avoid responsibility, and this meant covering up the truth. One

of her superiors informed her in these words:

You need to know a little about some policies that are followed religiously in the FBI. Policy one: one for all, all for one. Policy two: problems and embarrassments are always swept under the rug — *always*. They don't want to know about serious and embarrassing problems, no matter how scandalous. They don't want people reporting these types of issues and cases; especially on the record, in writing. (p. 104)

"They" in this quote referred to "the management, the headquarters, the director." The implication of this advice was that protecting the reputation of FBI management was more important than protecting the US from terrorists and criminals.

Her co-workers and bosses advised her to either stay and accept what was happening, or to leave — but Edmonds wouldn't accept this advice. She felt it was her duty as a loyal employee and citizen to report the security risks she discovered — including external risks to the US and internal risks within the FBI — to higher authorities. Thus she began a journey travelled by many whistleblowers before her, one that can be labelled "the failure of official channels."

Within the FBI, she got nowhere. Reporting problems to ever higher officials simply made her a marked woman. Before long, reprisals began. She found that her phone was tapped. When meeting key figures outside bureau offices, for example in a restaurant, two agency figures would sit nearby and conspicuously listen to and video her, a transparent attempt at intimidation, to deter anyone else from joining Edmonds.

The worst part was threats to her family members living in Turkey. Her co-worker Dickerson, whose work Edmonds had exposed as protecting criminals in Turkey, threatened Edmonds and apparently used connections to have them threatened.

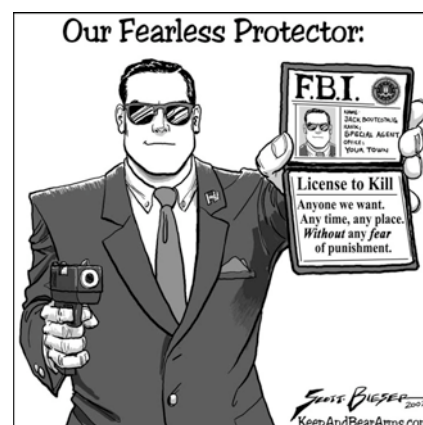
FBI management instructed Edmonds to take a lie detector test, with the usual bind. If she went, the results could be fiddled and used to dismiss her; if she refused to go, she could be

dismissed for disobeying instructions. Only with the support of astute advice was she able to take the test and ensure that the results were not manipulated. However, she was fired anyway.

One big disappointment was the response of US watchdog bodies.

The day after I was fired, I began looking for an attorney, which proved difficult. Good, affordable attorneys willing to take on the FBI and Justice Department are a rarity in Washington, DC. As far as government watchdog and whistleblower organizations go, none of them call back unless you happen to be famous. (It took me years to understand the game: high-profile cases are cash cows for many of these groups, who use the funds they raise to pay the salaries of their staffs, none of whom are whistleblowers.) (p. 152)

Eventually, she decided to go public, and suddenly things looked more promising. She was persuaded to appear on national television, after which she was contacted by numerous other media, in the typical flurry of attention. A key spin-off was being contacted by numerous other whistleblowers from intelligence agencies.



The FBI began a media counter-offensive, leaking information to discredit Edmonds. Her reputation was especially damaged in Turkey, where she was denounced as a spy. Edmonds had been visiting her extended family in Turkey every year, but now she knew she could never again visit the country, because she would probably be arrested, imprisoned, tortured and killed. Just in time, Edmonds was able

to convince her sister to leave Turkey for the US.

As Edmonds became well known, she was contacted by one of the watchdog bodies that had previously done nothing: the American Civil Liberties Union. Edmonds at first was so disgusted that she refused the ACLU's overtures to assist her, but eventually she accepted the ACLU's support for a legal challenge to the FBI over her dismissal. This is where the story becomes amazing.

So determined was the government to prevent Edmonds from succeeding in court that it invoked a little-used law, state secrets privilege, to prevent the case from proceeding. With the ACLU's support, the case was taken through several courts. The government pulled out its strongest techniques. The case was originally assigned to what seemed to be a fair judge. Through behind-the-scenes pressure, it was reassigned to a judge who was a pawn of the Bush administration, and who would rule for the government no matter what the evidence. Appeals went up to the Supreme Court, unsuccessfully.

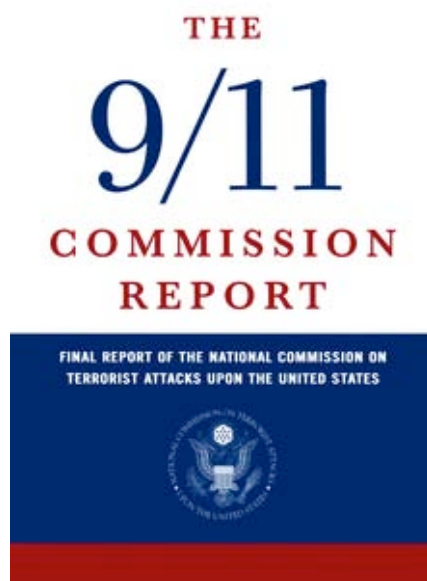
The extraordinary part of this saga is that the government was able to retrospectively claim that certain information was classified, even though it was already in the public domain. This information included Edmonds' date of birth, where she attended university and what languages she speaks. This absurd prohibition was a side-effect of the contortions required by the administration and courts as they tried to prevent the release of embarrassing information. Retrospectively classifying information as secret prevented action by the US Congress. This result had nothing to do with national security; quite the contrary, it damaged security but protected incompetence, negligence and criminality within the national security apparatus.

Edmonds felt she had to pursue the matter to the highest level — the Supreme Court, with the support of the ACLU — because otherwise the government would invoke state security privilege in other cases. She was right: this is exactly what the government subsequently did. Laws designed for exceptional circumstances are now used in routine circumstances to

prevent releasing information to the public because it is embarrassing to the government.

After 9/11, the US Congress set up a commission to investigate the events, supposedly in depth, accepting submissions from anyone. But when Edmonds contacted the commission and told them the sort of information she had, they didn't want to know. She discovered others with important information were similarly given the cold shoulder. Then she heard about four women from New Jersey whose husbands had died in the 9/11 attacks. Edmonds made contact and found they were allies in the struggle to raise the alarm about problems in the security system.

You might ask, why wouldn't a commission dedicated to discovering the truth about 9/11 want to know about missed warnings of an attack on the US and the penetration of the FBI by figures linked to organised crime in the Middle East? The reason seems to be that too many members of Congress have links to the apparently respected government and business people in Turkey and elsewhere who would be exposed through a thorough investigation. So the commission didn't attempt to assign responsibility for the 9/11 attacks. Its report received saturation media coverage. According to Edmonds and the New Jersey activist widows, it was a whitewash.



One of her earliest and most helpful allies was Daniel Ellsberg, who had leaked the Pentagon Papers, a history

of US government involvement in the Vietnam war, back in the 1970s. Edmonds, having been contacted by numerous other whistleblowers, decided to set up an organisation, the National Security Whistleblowers Coalition. This was an outstanding initiative, given the power of the national-security agencies in the aftermath of 9/11. Many former employees were willing to become involved in the coalition because the agencies had become more interested in money and power than in doing their jobs properly.

Edmonds continued to believe in official channels. If the courts had become tools of the system, she next put her hope in the political system, and organised lobbying of politicians. Some were supportive. Then came the 2008 election, when Barack Obama was elected. To Edmonds' disgust, the previously supportive politicians didn't follow through, and the Obama administration carried on the same oppressive policies as its predecessor, the Bush administration. Obama had voiced support for whistleblowers, but his administration took tougher action against them than Bush's. So much for putting trust in political reform.

For years, Edmonds poured incredible energy into her campaigns, holding herself together by the hope of real change. Her husband was a pillar of strength through every crisis. Eventually the disillusionments became too great, and she broke down, unable to do anything. It took a long time for her to recover and to forge a new path: running a blog and website, and writing her book *Classified Woman*.

For some readers, the story Edmonds tells may be almost too confronting to believe. However, I found it entirely convincing because all of Edmonds' experiences follow a trajectory familiar to whistleblowers: speaking out, reprisals, appeal to official channels, the failure of official channels, and going public. Not every whistleblower proceeds this way, but enough of them do for the path to be well worn. Edmonds' story is unusual mainly in the exceptionally high profile of her saga and the lengths the US government went to block independent investigation of her claims.

There is another stage worth mentioning: going to the media. In many

whistleblower cases, the mass media are powerful allies. A balanced treatment of a whistleblower story is often highly damaging to the employer, so media coverage is often the best support a whistleblower can obtain. But this applies only to cases within a certain political context. Some cases are too hot to handle even by the media. In the US, the mainstream media will not challenge the status quo beyond a certain point, as Edmonds discovered.

Early in her struggles, the media were keenly interested, but as the stakes became higher and the implications more far-reaching, suddenly the media lost interest. Concerning tough questions about espionage and invoking state secrets privilege, “The media — that is, the mainstream media in the United States — never asked these questions, never sought an answer through investigative work. Never.” (p. 283) Meanwhile, alternative media and foreign mass media remained intensely interested.

What could Edmonds have done differently? This question is relevant to any potential whistleblower. The first thing was not to trust her bosses to do the right thing. In dealing with any issue in which senior management might be implicated and have something to hide, they essentially become the enemy of truth and fair play and hence the enemy of the whistleblower. They are not to be trusted. Even those who seem sympathetic may not do the right thing, because their jobs are at stake. So who can be trusted? Co-workers are good prospects, especially those who have nothing to lose — maybe they are planning to leave anyway. Former workers are also possible allies, as are friends, family members and concerned members of the public.

An often-repeated piece of advice to potential whistleblowers is to collect lots of information about the problem. This immediately causes a difficulty for employees in national security agencies, because collecting information — for example, making copies of one’s own work — can be treated as a breach of security. It doesn’t matter that lots of others are doing things that are much worse: any violation of procedures can be used as a pretext for reprisals. Nevertheless, collecting in-

formation is so important that it can be worth taking the risk. The implication is it is best to lie low rather than signalling an intent to take a public stand. As soon as Edmonds discovered possible wrongdoing, she started reporting it to her boss and later to higher officials. She made herself a sitting target.

The higher the stakes, the more consideration should be given to anonymous leaking. Edmonds did not take this road, so how well it might have worked for her is uncertain. It is worth noting that speaking out means the attention is often more on the whistleblower and the injustice of reprisals than on the issue being addressed. Edmonds was adamant that national security was the central concern, but this often took a back seat in her saga of secrecy, surveillance, intimidation and other reprisals that she encountered. She was aware of this problem but could not find an easy way to overcome it.

Another lesson is not to trust official channels. Edmonds tried one after another, continually searching for justice. Eventually she learned that the system was sewn up: there was no way to achieve reform on the inside. Through a process of elimination, she found only two reliable ways of having an impact: mobilising other national security whistleblowers and alerting the wider public.

One of the common pieces of advice to whistleblowers is that publicity is a powerful ally, when it can be obtained. Mass media coverage can make a huge difference. Edmonds found this initially. But as the stakes became higher, even the US mass media pulled back, afraid to cover a story that showed high-level corruption and cover-ups.

Edmonds set up a blog and was having a big impact. She was not prepared for Google to succumb to pressure and delete the blog at a crucial time. The lesson here is to prepare for a wide range of possible attacks. Edmonds later set up a website that was less susceptible to pressure.

If Edmonds had known what was coming, she might have chosen an entirely different strategy, lying low, collecting information, leaking information, and anonymously notifying committed campaigners about ways to

intervene against corruption in the security apparatus. Perhaps some future insider dissidents will take this path. Meanwhile, we can be thankful that there are individuals such as Edmonds who have taken the noble, principled path of speaking out, paying the penalty for pushing for honest and effective behaviour, and surviving to mobilise others and tell a story that can inform and inspire us all.



Sibel Edmonds, *Classified Woman: The Sibel Edmonds Story. A Memoir* (Alexandria, Virginia: Sibel Edmonds, 2012).

Book ordering information:  
<http://www.classifiedwoman.com/>  
 Boiling Frog Post:  
<http://www.boilingfrogspost.com/>  
 National Security Whistleblowers  
 Coalition: <http://www.nswbc.org/>



I thank Anu Bissoonauth-Bedford and Anne Melano for helpful comments on a draft of this review.



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## Conference and annual general meeting

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### Conference

Saturday 23rd November 2013

8.15am for 9am

The speakers will all be whistleblowers, including Jo Barber, Queensland (medical registration failures), Peter Fox, NSW (church, paedophile cover-ups) and Brian Hood, Victoria (Reserve Bank, NPA, Securrency scandal).

### AGM Sunday 24 November 2013

8.15am for 9am

Plus speakers followed by a roundtable talkfest, where we get to share our experiences.

**Venue:** Uniting Church Ministry Convention Centre on Masons Drive, North Parramatta, Sydney NSW

**Non member:** \$60 per day, includes lunch & morning/afternoon tea. Optional \$25 extra for dinner onsite 6pm Saturday night

**Member:** \$45 per day or \$80 for two days. (Note member discount also applies to students & concession cardholders).

No charge for members, concessional cardholders & students from interstate, on prior application to WBA secretary Jeannie Berger ([jayjellybean@aol.com](mailto:jayjellybean@aol.com)).

Optional dinner @ \$20 a head, onsite 6pm Saturday night.

**Bookings:** notify full details to treasurer Feliks Perera by phone on (07) 5448 8218 or at [feliksfrommarcoola@gmail.com](mailto:feliksfrommarcoola@gmail.com) or president Cynthia Kardell (for phone/email see below under enquiries).

**Payment:** Mail cheque made payable to Whistleblowers Australia Inc. to the treasurer, Feliks Perera, at 1/5 Wayne Ave, Marcoola Qld 4564, **or** pay Whistleblowers Australia Inc by deposit to NAB Coolum Beach BSB 084 620 Account Number 69841 4626 **or** by credit card using PayPal to account name [wba@whistleblowers.org.au](mailto:wba@whistleblowers.org.au).

**Low-cost quality accommodation is available at the venue:** Book directly with and pay the venue. Call 1300 138 125 or email [service@unitingvenues.org](mailto:service@unitingvenues.org)

**Enquiries:** ring national president Cynthia Kardell on (02) 9484 6895 or email [ckardell@iprimus.com.au](mailto:ckardell@iprimus.com.au)

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## Whistleblowers Australia contacts

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**Postal address** PO Box U129, Wollongong NSW 2500  
**Website** <http://www.whistleblowers.org.au/>

### New South Wales

**"Caring & sharing" meetings** We listen to your story, provide feedback and possibly guidance for your next few steps. Held by arrangement at 7.00pm on the 2nd and 4th Tuesday nights of each month, Presbyterian Church (Crypt), 7-A Campbell Street, Balmain 2041. Ring beforehand to arrange a meeting.

**Contact** Cynthia Kardell, phone 02 9484 6895, [ckardell@iprimus.com.au](mailto:ckardell@iprimus.com.au)

**Wollongong contact** Brian Martin, phone 02 4221 3763.

**Website** <http://www.bmartin.cc/dissent/>

**Queensland contacts** Feliks Perera, phone 07 5448 8218, [feliksfrommarcoola@gmail.com](mailto:feliksfrommarcoola@gmail.com); Greg McMahon, phone 07 3378 7232, [jarmin@ozemail.com.au](mailto:jarmin@ozemail.com.au)

**South Australia contact** John Pezy, phone 0433 003 012

**Tasmania** Whistleblowers Tasmania contact, Isla MacGregor, phone 03 6239 1054, [opal@intas.net.au](mailto:opal@intas.net.au)

**Schools and teachers contact** Robina Cosser, [robina@theteachersareblowingtheirwhistles.com](mailto:robina@theteachersareblowingtheirwhistles.com)

### Whistle

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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.

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## Advice to whistleblowers

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Dr James Page offers the following advice.

- a. Get a good filing cabinet or at least some good cardboard boxes.
- b. Buy plenty of manila folders.
- c. Work out a system for filing your records in logical and retrievable fashion.
- d. Contact a local neighbour centre, so that you can do cheap photocopy of emails and documents (need hard copy).
- e. Research the administrative complaints systems available to you.
- f. Make GIPA/FOI applications.
- g. Work out a strategy for working through these systems, and making complaints.
- h. Persist with complaints: expect 9 out of 10 complaints to fail, but occasionally you will encounter a diligent public servant who will look at the evidence.

## Whistleblowers Australia membership

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

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