

Shielding Whistleblowers from the Sword

Abstract

It has been 25 years since whistleblowing was first researched as a phenomenon in Australia at the University of Queensland. Three years later Queensland's first whistleblowing legislation became law.

Those twenty years of intimate involvement within the mechanisms of this legislation, and of its successor legislation, have provided whistleblowers with an accumulation of experience and case histories of interactions with government.

The paper outlines anecdotal comparisons and quantitative trends tending to suggest

1. A loss of capability within public agencies, and a lack of effectiveness in utilizing remaining capabilities;
2. A decrease in lawfulness within the operations of government
3. The huge costs that may be facing taxpayers because of the failures to address whistleblower disclosures and to retain the capabilities, leadership and integrity whistleblowers contributed within agencies.

These patterns may indicate the need for a fundamental restructure and reform of current legislative and administrative regimes applied to whistleblowing. Analysis is directed towards the macro aspects of the legislation rather than the micro features that are also certainly important.

The survival of the whistleblower in their agency may be critical to maintenance of capability and effectiveness within agencies. This paper proposes that the establishment of a Whistleblower Protection Authority may be critical to the survival of whistleblowers within the public service, and that whistleblower survivals may be key to:

- a. Disclosed wrongdoing being addressed and not allowed to be returned
- b. The maintenance of professional standards and skill sets
- c. Inclusion of mechanisms similar to the False Claims legislation in the US, and,
- d. Agencies meeting legal expenses of whistleblowers where prima facie wrongdoing has been disclosed

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