1. Introduction

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Whistleblowing: shifting the focus

Of the many challenges in modern public sector management, few are as complex as the encouragement and management of whistleblowing. The complexity of the challenge is underscored by a severe lack of knowledge about some of the basic facts regarding this important phenomenon.

Because it can lead to the discovery and rectification of wrongdoing, whistleblowing is widely acknowledged as having potentially positive effects—for organisations and for society at large. It is also, however, widely assumed to be undervalued in organisations and in many situations as a relatively rare event likely to involve something of a ‘crisis’ for the organisation involved. This is because, almost by definition, whistleblowing is often accompanied by many conflicts, tensions and short-term negative effects—including for whistleblowers—whatever long-term positive outcomes might also emerge. Indeed, the problems often associated with whistleblowing have led to a widespread belief that every whistleblower is destined to suffer for their experience and that nothing can be done to protect them from reprisals. Even if they do it once, a sensible employee is often seen as unlikely to blow the whistle a second time.

This bleak picture provides public sector managers with little hope for, or reason to invest in, strategies for encouraging staff to blow the whistle on perceived wrongdoing within their organisation. In this book, however, this bleak picture is revealed to be substantially inaccurate. Resulting from continuing research involving up to 304 public sector agencies from four Australian jurisdictions, the preliminary analysis presented here shows the management of whistleblowing to be a far more varied and sometimes far more positive area of organisational and administrative practice. Rather than rare or ‘special’, whistleblowing is a routine activity in the majority of Australian public sector agencies. As Chapter 2 explains, on a conservative estimate, perhaps 12 per cent of all public servants have reported some form of public interest wrongdoing in their organisation in a two-year period—an estimate that would equate to 197 000 public servants nationally. At least as many public servants who have directly observed wrongdoing choose not to report it; nevertheless, on average, the number prepared to do so is high.

The level and frequency of whistleblowing appears to have gone under-recognised, until now, for various reasons. Much of this reporting remains

confidential. Legislative requirements and administrative systems for the reporting of whistleblowing are patchy. Many if not most whistleblowers prefer not to be tagged as such. There is confusion and inconsistency in the ways in which whistleblowing is defined and labelled. Finally, until very recently, systematic, independent research has been limited. All these explanations raise different, but soluble problems for public sector management.

Another departure from the previous bleak picture comes in new evidence, set out in Chapter 5, that it is not inevitable that whistleblowers must suffer for their experience. Overall, a substantial majority of officials who reported public interest concerns in recent years—on average, at least 70 per cent—responded that management and colleagues treated them either the same or as well as a result of the incident. Contrary to many stereotypes about the fate of whistleblowers, there are a great many who do not experience deliberately inflicted negative outcomes. These results accord with other evidence that the social and organisational importance of whistleblowing is well recognised in many public agencies. While debate is alive and well about how to manage the complexities of these situations, many agencies have actively grappled with the practical issue of how to encourage staff to disclose perceived wrongdoing, and even with the difficult issue of how to protect staff from reprisals should they do so.

While this research changes the previously bleak picture, it also brings a shift in focus. New questions arise. Previously, concerns centred on whether whistleblowing processes could be made to work at all. Now the question becomes: how is it that some organisations appear to be encouraging and managing whistleblowing more successfully than others? Some of the agencies studied can boast that less than 10 per cent of employees who observed serious wrongdoing did nothing about it. In at least one organisation in each of the four jurisdictions, however, more than 55 per cent of staff in the same position did nothing—they neither reported the wrongdoing nor took any other action. The answers to this lie in the context and culture of these different organisations.

Similarly, in some agencies, the proportion of whistleblowers that claimed mistreatment fell close to zero. In others, however, upwards of 46 per cent claimed to have been mistreated directly by management of the agency as a result. Moreover, even when direct reprisals are not involved, the evidence shows that whistleblowing often involves stress, tension and lasting consequences that prove difficult for whistleblowers and their organisations alike. When whistleblowers survive the experience, this is likely to be despite the formal management systems of their organisations for dealing with such situations, rather than because of them. As Chapter 9 reveals, even when agencies have developed special ‘internal witness’ management programs to better support

their staff, perhaps only 1.3 per cent of all public interest whistleblowers are making it onto the 'radar' of these programs.

This book sets out both sides of this complex reality. Resulting from the world's largest known study of whistleblowing on a per capita basis, it provides the first comprehensive empirical data in Australia on the relative effects—and therefore the strengths and weaknesses—of a decade of legislative and management reform on the issue of public interest whistleblowing. The analysis draws on the results of this empirical research, together with qualitative assessment of the procedures used by agencies to guide their responses and comparative analysis of the different legislative frameworks in place. The conclusions flow from an analysis of all these facets of the way in which public sector whistleblowing is currently managed.

Part 1 of the book presents the empirical data, looking at the experiences of a wide range of public servants across a wide range of agencies, including those who observe wrongdoing but don't report it and those who report it and do or don't suffer. The five chapters in this section examine the results of the project surveys as a whole, typically presenting an aggregate or averaged picture of the experiences of public officials in total. The chapters also, however, point to the substantial differences in outcomes depending on the circumstances in which wrongdoing is seen and whistleblowing occurs, including the substantial differences in the responses of different agencies.

Part 2 begins the major shift in focus that is needed as a result of this research. It presents the empirical data describing, or most relevant to, the different management environments and systems in public sector agencies within which reporting and non-reporting occur. The five chapters in this part cover management attitudes in general, internal investigation standards, internal witness support programs, agency whistleblowing procedures and the legislative context. Through this shift in focus, the research sets out a new basis for evaluating what types of management approaches are making a difference and what types of procedural and legislative reforms are needed to reinforce best-practice approaches.

A second report from the project will help complete this new picture of current and prospective best practice for the management of whistleblowing at an organisational level. The findings reached here, however, already point the way to some of the major reforms needed. Agencies that make more credible efforts to encourage whistleblowing and protect their staff are achieving more positive results and are therefore showing the way for the development of more comprehensive models of best practice in the management of whistleblowing. At the same time, the relative success of these agencies provides the evidence that many more systems are patchy and are therefore missing out on achieving more positive outcomes in a higher proportion of whistleblowing cases. Chapter

10 assesses only five of 175 agencies nationally as having developed reasonably strong procedures for the management of whistleblowing, measured against the current Australian Standard. Legislative regimes for managing whistleblowing are indeed having positive effects, but they contain many problems and gaps, which must be addressed in a more comprehensive and consistent way if the original intent is to be fulfilled. There is some way to go to bring these regimes up to an acceptable overall standard, and a long way to go before a majority of individual public sector agencies are maximising their chances of gaining improved outcomes for themselves and their staff.

This new picture of public sector whistleblowing shows it will be worth the effort to travel these distances. In a field of policy and public management that previously looked wholly bleak, these data show that many more of these complex conflicts are being, and can be, resolved in a positive manner. By managing whistleblowing better, outcomes can be found that are just to individuals, serve the long-term interests of organisations and better discharge our institutions' wider obligations to ensure transparency and integrity in public office.

The Whistling While They Work project

The analysis presented here is derived from a suite of research activity examining the incidence, outcomes and management of whistleblowing conducted in 2005–07 across a wide cross-section of public agencies from the Commonwealth, NSW, Queensland and West Australian governments. This research was conducted as part of an Australian Research Council-funded Linkage Project, 'Whistling While They Work: Enhancing the theory and practice of internal witness management in public sector organisations', led by Griffith University. The project involves four other Australian universities and 14 partner organisations, including the public integrity and management agencies listed in the Acknowledgments and on the project web site (www.griffith.edu.au/whistleblowing). A steering committee representing the partner organisations oversaw the project. The project team comprised the lead researchers from each participating university plus three partner investigators from the NSW, Queensland and West Australian governments.

The overall aim of the project was to identify and expand current best-practice systems for the management of public interest disclosures in the Australian public sector, including more effective whistleblower protection. Underpinned by empirical research into the performance and potential of existing internal witness management approaches, the project sought to develop new standards for internal disclosure procedures (IDPs) in public sector integrity systems, foster improved coordination between integrity bodies in the handling and oversight of disclosures and support implementation of improved internal witness

management strategies in a range of organisational settings. To these ends, the four main objectives, or 'terms of reference', for the research were:

1. to describe and assess the effects of whistleblower legislative reforms on the Australian public sector in the past decade, including effects on workplace education, willingness to report and reprisal deterrence
2. to study comparatively what is working well and what is not in public sector internal witness management, to inform best-practice models for the development of formal IDPs and workplace-based strategies for whistleblower management
3. to identify opportunities for better integration of internal witness responsibilities into values-based governance at organisational levels, including improved coordination between the roles of internal and external agencies, and strategies for embedding internal witness responsibilities in good management
4. to inform implementation strategies for best-practice procedures in case study agencies, including cost-efficient options for institutionalising and servicing such procedures in a range of organisational, cultural and geographical settings, as well as legislative and regulatory reform where needed.

In late 2005, detailed research questions were developed to guide the empirical research, which are set out in Appendix 1. Table 1.1 sets out the primary questions and indicates which chapters in the book provide the main answers to each question.

This book reports extensive quantitative research results, examining public servants' experience of and attitudes towards whistleblowing. It also presents a wide range of conclusions based on those results, together with qualitative assessment of agency procedures and systems and comparative analysis of legislative frameworks. Findings are made in relation to priority areas for action, for most agencies and all governments. Further results will also be published in combination with a second phase of analysis, supplemented by qualitative research in 15 'case study' agencies, as outlined below.

As can be seen from the project objectives, the major purpose of the quantitative research program is to provide an up-to-date, representative picture of how much whistleblowing goes on in the Australian public sector and how it is being managed. Historically, in Australia and overseas, published accounts of whistleblowing have often been based on anecdotal evidence drawn from high-profile case studies of public whistleblowing (Dempster 1997; Elliston 1985:50–3; Glazer and Glazer 1989; Martin 1997; Senate Select Committee on Public Interest Whistleblowing 1994). As will become clear, however, these accounts provide relatively few insights into how much whistleblowing goes

on in total and the full range of outcomes that might befall those who make internal or regulatory, as against public, disclosures.

Table 1.1 Research questions

Research questions	Relevant chapters
<i>A. The incidence and significance of public sector whistleblowing</i>	
1. How common is whistleblowing in public sector organisations?	Chapters 2 and 4
2. How important is whistleblowing in public sector organisations?	Chapters 2 and 5
3. What factors and circumstances give rise to whistleblowing in public sector organisations?	Chapter 3
<i>B. The experiences and perceived experiences of public sector whistleblowers</i>	
4. What do whistleblowers and other internal witnesses experience in the course of this role?	Chapters 5 and 6
5. How common are reprisals against whistleblowers and what forms do they take?	Chapters 5 and 6
<i>C. The incidence, nature and influence of internal witness management/whistleblower protection programs within and across the public sector</i>	
6. What is the range of internal witness management policies and programs within and across the public sector?	Chapters 9 and 10; further report
7. Are different outcomes of whistleblowing associated with differences in a) legislation, b) procedures/programs and/or c) CEO/senior management commitment and culture?	Chapters 7, 8, 9 and 10
8. Which external factors have effects (positive or negative) on internal witness management?	Chapter 10
9. What policies can organisations pursue to most effectively manage and maximise whistleblowing?	Chapters 9, 10 and 12; further report
10. What reforms can governments pursue to most effectively manage and maximise whistleblowing?	Chapters 10–12

Early Australian empirical studies provided valuable insights into the range of adverse outcomes that befell a wider range of whistleblowers, but suffered from having access only to limited self-selecting or convenience samples, and certain organisational contexts and jurisdictions (de Maria 1994; de Maria and Jan 1994). Anecdotal case study research and this early quantitative research tended not to provide clear indicators of what might constitute good whistleblowing practices because the outcomes for whistleblowers appeared to be so uniformly bad. The bleak picture described at the outset of this chapter is perhaps best summed up by de Maria's description of his research as a 'tour through the entrails of our society' in which he finds 'nothing to celebrate...except perhaps the valour of the whistleblowers who guide us into the netherworld of corruption, incompetence, cover-ups and organisational vendettas' (de Maria 1999:xiii).

While whistleblowing research has suffered from similar problems internationally, it is clear that some large-scale studies of random samples of organisations, notably in North America, have yielded a more representative picture of whistleblowing incidence and experience, along with awareness and attitudes, than previously available in Australia (for example, US Merit Systems Protection Board 1981, 1993, 2003; Miceli et al. 1991, 1999, 2001; Trevino and

Victor 1992; Sims and Keenan 1998; Pershing 2003; Near et al. 2004; Miceli and Near 2006). In the late 1990s, empirical research was extended to a larger, more representative sample of randomly selected NSW public employees spread across several agencies, conducted by the NSW Independent Commission Against Corruption (ICAC)—but this focused on knowledge of whistleblowing procedures and attitudes towards whistleblowing rather than real experience (Zipparo 1999a, 1999b). This project's first objective was therefore to undertake the first comprehensive, large-scale empirical study in Australia.

The second objective was to study the nature of the management of public interest disclosures, as an organisational process, across a wide cross-section of the Australian public sector. This aim reflected practical experience on the part of many of the researchers and partner organisations to the project that many public agencies were struggling valiantly to operationalise new whistleblowing legislation, encourage disclosure and better manage those involved. The Commonwealth Ombudsman (1997) documented this in the case of the Australian Federal Police. Evaluations of the NSW Police Force Internal Witness Support Program suggested that such a program might help prevent and contain some of the many adverse outcomes that potentially threatened whistleblowers (Freeman and Garnett 1996). Contrary to some of the early Australian empirical research, limited statistics flowing from the introduction of whistleblowing legislation in New South Wales and Queensland indicated that, across a range of agencies, whistleblower disclosures were more likely to be investigated and found substantiated than information about similar matters from other types of sources (Brown et al. 2004).

These indicators meant that even if the management of whistleblowing was known to be problematic, there was a clear need to understand the growing institutional experience in internal witness management across a range of organisations and sectors. It was therefore decided to broaden the empirical research from actual and potential whistleblowers to groups responsible for managing whistleblowing and related conflicts, including line managers, investigators, employee welfare personnel and other forms of case-handlers. This wider focus had not previously been attempted, including in the large American studies. Part 2 of this volume draws particularly on this evidence, along with the other available data relevant to gauging the extent and effectiveness of different agency approaches.

The third and fourth objectives were to assemble the research results in a way that would help identify practical strategies by which organisations might better fulfil their statutory disclosure-management obligations and assist the evaluation and reform of Australia's relatively new statutory regimes for whistleblower protection. The third objective is being met not only through the publication of the present volume, but by further analysis setting out current and potential

best practice in agency-level internal witness management systems, as discussed at the end of this chapter.

The lessons of this research for current statutory frameworks become clear in Chapter 11. In November 2006, to help focus debate on the complexities of the legislative issues involved, the project produced an issues paper entitled *Public interest disclosure legislation in Australia: towards the next generation* (Brown 2006). Since that time, many jurisdictions have proceeded with formal reviews of their legislation and the Commonwealth Government has committed to introduce comprehensive legislative reform for the first time. By including multiple jurisdictions and a large number of agencies in the quantitative research program, the project team set out to assemble a body of data capable of supporting a wide range of comparative and multivariate analyses, to help answer some vexed questions about administrative, procedural and legislative approaches to whistleblowing.

What is ‘whistleblowing’?

The essential feature of whistleblowing is the ‘disclosure by organisation members (former or current) of illegal, immoral or illegitimate practices under the control of their employers, to persons or organisations that may be able to effect action’ (Miceli and Near 1984:689). This definition provides a sound starting point because it allows for the many types of wrongdoing about which such disclosures might arise and the many forms that whistleblowing can take (Miceli et al. 2001). It is also the most commonly accepted and widely used definition in related empirical research (Tavakoli et al. 2003).

In this book, whistleblowing is also taken to mean disclosure by organisation members about matters of ‘public interest’—that is, suspected or alleged wrongdoing that affects more than the personal or private interests of the person making the disclosure (Senate Select Committee on Public Interest Whistleblowing 1994:Par.2.2). This qualification aligns with most public and public policy conceptions of the term and with the objectives of the many different legislative regimes for public sector whistleblower protection now in place in Australia. Despite the controversies surrounding policy and legislative responses to whistleblowing, the objectives of this legislation are relatively consistent and clear (NSW Ombudsman 2004a; Brown 2006:5):

1. to facilitate public interest disclosures—that is, to encourage whistleblowing
2. to ensure that disclosures by whistleblowers are properly dealt with—that is, properly assessed, investigated and actioned
3. to ensure the protection of whistleblowers from reprisals taken against them as a result of their having made the disclosure.

In its method, the present research did not use the term ‘whistleblowing’ itself, just as no existing legislative regime actually makes substantive use of the term.

Instead, our surveys asked respondents about ‘wrongdoing’ of which they were aware (discussed further below) and whether they or anyone else had formally ‘reported’ it. Throughout the research, however, there remains an important distinction between wrongdoing that can be considered resolved when an affected individual considers it resolved (personal or private interest) and wrongdoing that threatens wider organisational and/or public integrity, above and beyond any outcomes for affected individuals (public interest). Conventionally, whistleblowing refers to the latter category, and it is used in this sense in this book.

Whistleblowing is an important public policy issue for two major reasons. Integrity in government relies on the effective operation of a range of ‘integrity systems’ for keeping institutions and their office-holders honest and accountable (Brown et al. 2005; Dobel 1999; Spigelman 2004; Uhr 2005). Within these systems, few individuals are better placed to observe or suspect wrongdoing within an organisation than its very own officers and employees. In Australia, this was brought into sharp relief by the Fitzgerald Inquiry into official corruption in Queensland (1987–89), which established that honest police officers had observed corruption but felt powerless to act. Even so, their honest evidence remained important in finally bringing corrupt officers to justice. Consequently, Queensland became the first Australian jurisdiction to introduce (interim) whistleblower protection legislation (Queensland Electoral and Administrative Review Commission 1991). There is now a substantial consensus in Australian public policy that irrespective of the challenges it might involve, whistleblowing is a crucial resource in modern efforts to pursue public integrity.

The second major reason is that, given natural organisational and peer pressures for employees to stay silent about public interest wrongdoing, whistleblowing is often not something that is likely to happen naturally, especially in a timely fashion. While organisation members might have many incentives to disclose workplace wrongdoing that affects them personally, there are less direct incentives—and many direct disincentives—for them to notice or report wrongdoing that affects only organisational interests or the larger public interest. As recorded in the early Australian research and overseas (Near et al. 2004; Miceli and Near 2006), even the most noble employee is justified in thinking twice about coming forward. Predictably, the wrongdoing exposed might be controversial and damaging and its disclosure could provoke conflicts that involve negative outcomes for all involved. For whistleblowing to be properly encouraged, it is clear that these natural disincentives to reporting must be reduced, removed or overcome.

While simple in theory, the definition of whistleblowing is complex in practice. First and foremost, whistleblowers are understood to be ‘organisation members’ (for example, employees, volunteer workers or contractors) for both of the above

reasons. It is their internal position in the organisation that is most likely to make them aware of internal wrongdoing and also most likely to place them under pressure to stay silent. At times, however, any person who claims to have revealed wrongdoing might also seek to claim this title, even when they are outside the organisation concerned—for example, when they are an aggrieved consumer, client or citizen complainant. The fact that legislation in five Australian jurisdictions currently supports this second concept of a whistleblower—confusing the purpose of whistleblower protection—is a basic issue for reform (see Brown 2006:8; Chapter 11, this volume).

Different conceptions of whistleblowing also stem from the question of ‘to whom an official may validly make a disclosure’ in expectation of action. For most citizens, the quintessential example of whistleblowing is public—such as a disclosure to the media or one that reaches the public–political domain. Journalist Laurie Oakes (2005) reinforced this perception when he wrote that ‘leaks, and whistleblowers, are essential to a proper democratic system’, and recent Commonwealth prosecutions of officials for making unauthorised disclosures have increased the focus on this issue (Brown 2007). Some academic commentators even regard public disclosure as the only ‘true’ form of whistleblowing (for example, Grace and Cohen 1998; Dawson 2000; Truelson 2001). Certainly, in the view of the Whistling While They Work project team, there will always be a legitimate role for some public whistleblowing—a fact that needs to be recognised in any credible whistleblower protection regime. The implications are discussed further in Chapter 11, especially in light of the Commonwealth Government’s recent acknowledgment of this issue.

While it is obviously the ‘loudest’ form, public whistleblowing also easily takes on a prominence that excludes proper attention on other important types of disclosure. Whistleblowing is not always ‘public’, in the sense of being subject to widespread publicity. Chapter 4 suggests that public whistleblowing is statistically infrequent and usually represents the disclosure avenue of last resort, with the bulk of whistleblowing taking place either internally or as a ‘regulatory’ disclosure to a government integrity agency. It is also clear that if whistleblowing is handled responsibly by organisations in this first instance, the outcomes are more likely to be positive than if the matter is forced to escalate into a public–political conflict. Consequently, in our research, the crucial element is that the information is communicated ‘to those who need to know about it’—that is, it is made ‘public’ in the sense of being made ‘a matter of public record’ (see Elliston 1985:8, 15, 21–2), which could be quite confidentially as well as with great publicity.

In practice, assessments of what whistleblowing is can also hinge on issues of motive: why the relevant employee is believed to be making the disclosure. The question of motive is, however, deliberately absent from the definition above.

This is because a valid matter of public interest can be raised without the person who raises it necessarily being driven by altruistic motives. Public interest disclosures made for self-serving reasons or as part of a personal grievance nevertheless remain public interest disclosures. The question of motive has therefore long been regarded by analysts as irrelevant to whether a disclosure amounts to whistleblowing, even though perceptions of motive could be relevant to how a disclosure is then managed.

The best way of understanding the secondary importance of motivations in whistleblowing is by understanding such disclosures as examples of 'pro-social behaviour' (Dozier and Miceli 1985; Brief and Motowidlo 1986). This is behaviour that is 'defined by some significant segment of society and/or one's social group as generally beneficial to other people' (Penner et al. 2005:366), irrespective of what particular benefits, if any, are intended in the individual case. Figure 1.1 outlines the model of whistleblowing as pro-social organisational behaviour (POB) initially presented by Dozier and Miceli (1985) and since revised by Miceli et al. (2001) and Miceli and Near (2006).

Figure 1.1 Model of whistleblowing as pro-social behaviour

Source: Adapted by M. Donkin from Miceli, M. P., Van Scotter, J. R., Near, J. P. and Rehg, M. 2001, 'Responses to perceived organisational wrongdoing: do perceiver characteristics matter?', in J. M. Darley, D. M. Messick and T. R. Tyler (eds), *Social Influences on Ethical Behaviour*, Lawrence Erlbaum Associates, Mahwah, NJ, pp. 119–35; and Miceli, M. P. and Near, J. P. 2006, Whistle-blowing as constructive deviance: an integration of the prosocial and social information processing models, Manuscript submitted for publication.

The POB model draws on Latané and Darley's (1970) theory of 'bystander effect', which explains why witnesses to a crime might not intervene. It proposes that when employees become aware of wrongdoing, they make decisions in similar ways to these witnesses. What, if anything, a witness hopes or stands to gain by coming forward does not affect the utility of their role or its 'pro-social' value as part of society's system of criminal justice.

The POB model also suggests that blowing the whistle is not a single decision but rather a complex process. Even the assessment that the behaviour in question constitutes wrongdoing, or that a response is warranted, is a subjective judgment. Miceli et al. (1991) found that the final decision regarding whether to act was related to a number of individual, organisational and situational factors, including judgments about the reporting environment and cues about whether reporting was likely to change the behaviour.

Even internationally, however, few empirical studies have attempted to demonstrate the link between whistleblowing and pro-social behaviour more generally, instead simply using it as an explanatory theory, by assuming or observing indirect links (Miceli and Near 2006). For example, Miceli and Near (2005:11–12) advised that prominent American whistleblowing cases 'appeared' to demonstrate pro-social behaviour, but that research was needed to 'clarify relationships'. In the present research, it was therefore decided to look for the combination of factors that gave rise to whistleblowing decisions in Australian public sector settings and for direct evidence that it was accurate to describe whistleblowing as a pro-social process.

Chapters 3 and 4 set out the results. Chapter 3 shows that organisational and situational factors typically prove more distinctive in the mix of decision making than many of the measurable characteristics of individuals. Both chapters confirm the accuracy of the description of whistleblowing as pro-social behaviour in an Australian public sector context, particularly by examining reporting behaviour in terms of established scales of organisational citizenship behaviour: 'individual behaviour that is discretionary, not directly or explicitly recognised by the formal reward system, and that...promotes the effective functioning of the organisation' (Organ 1988:4; see also Graham 1989; Penner et al. 2005).

This approach to issues of motive contrasts with several other approaches, in which the motives of whistleblowers are seen as more central to how whistleblowing is defined and categorised. Because it has positive organisational and social effects, and can indeed sometimes be selfless, whistleblowing is often presented by commentators as being always selfless even though this is unlikely to be the case. Whistleblowing has therefore been described as an example of civil disobedience (Elliston 1985:135–44), ethical resistance (Glazer and Glazer 1989; Martin 1997) and/or principled organisational dissent (Lennane 1993, cf. de Maria 1999:28–9), as if ethical reasoning is always involved. One author has

even generalised that whistleblowers should be considered the ‘saints of secular culture’ (Grant 2002:391). In seeking to emphasise the public interest relevance of whistleblowing, even Australia’s Senate Select Committee on Public Interest Whistleblowing suggested, unhelpfully, that whistleblowers should be recognised as always ‘*motivated* by notions of public interest’ (Senate Select Committee on Public Interest Whistleblowing 1994:Par.2.2, emphasis added; see also de Maria and Jan 1994:5–7).

This emphasis raises significant problems. Even if many whistleblowers are altruistic, to make this a defining characteristic and therefore a prerequisite for whistleblower protection is extremely problematic. On this approach, a substantial proportion of whistleblowers will never qualify, simply because they might also have a personal or private interest in the outcome. Whistleblowers who cannot prove that they conform to a stereotype of pure or altruistic motivation—which could be the bulk of them—can be relegated to a different category, including the equal and opposite stereotype of mere ‘vengeful troublemakers’ (Lewis 2001). Such stereotypes therefore confound the purpose of recognising whistleblowing in the first place.

Another problem is posed by a further definitional variant—that of defining whistleblowers in terms of the outcome of their experience. After his survey of 83 Queensland whistleblowers in 1994–95, de Maria concluded that the definition of a whistleblower should include the feature of suffering, because he recorded no individuals who had not suffered in some way; ‘the non-suffering’ whistleblower was seen as ‘a contradiction in terms’ (de Maria 1999:25). There are two major problems with this qualification. First, as already noted, de Maria’s sample was limited to respondents recruited by a newspaper advertisement and word-of-mouth, a method naturally more likely to attract aggrieved people than those who had not suffered. Second, the qualification is impossible to reconcile with a major policy rationale of defining whistleblowing in the first place—namely, to protect whistleblowers in a positive or proactive way before they experience bad outcomes. A definition that enables whistleblowing incidents to be recognised only after conflict has arisen and damage is done cannot function to help identify whistleblowing for the purpose of preventing or reducing such damage. In this report, outcomes are an essential issue for analysis, but do not define who is a whistleblower.

Finally, this research also makes use of the term ‘internal witness’ as an alternative to ‘whistleblower’ in the context of internal and regulatory disclosures. This term was developed by the NSW Police Force (Freeman 1998; Smith 1996; Wood 1997:408) and is now also in increasing use among other public sector agencies in Australia. It aligns with the pro-social role of whistleblowing, akin to other witness roles, as discussed above. The value of this term also lies in combating a number of problematic stereotypes of whistleblowers, given that, in practice,

disclosures can be made not just for a wide variety of motives but in a wide variety of ways, including with differing levels of formality and under different degrees of legal compulsion. It should be noted, however, that this term, as used in this research, is consistent with the definition of whistleblowing given earlier.

What is ‘wrongdoing’?

Whistleblowing can be about a wide spectrum of illegal, immoral or illegitimate practices. In this research, the spectrum is captured by the general term ‘wrongdoing’, with data collected in terms of a large number of different types of behaviour that could be categorised in a number of different ways—including whether there could be primarily private or public interests involved. A wide definitional approach was necessitated not only by the imprecision of existing categories, but by the inherent dangers of taking too restrictive an approach, whether in research or in legislation. For example, restricting whistleblowing to only ‘serious’ examples of public interest wrongdoing begs the question of in whose judgment the wrongdoing meets that threshold. An agency wishing to minimise the amount of whistleblowing to which it need respond can simply increase the threshold. In reality, the benefits of whistleblowing are likely to be encouraged only when agencies promote an ‘if in doubt, report’ approach (Brown et al. 2004). For this reason, the present research sought to establish a comprehensive picture of the breadth of wrongdoing types that public officials observed and might potentially disclose.

Appendix 2 lists the 38 different behaviours that were offered to survey respondents in the present research as examples of wrongdoing. These were then grouped into seven major categories for the purpose of analysis:

- misconduct for material gain (including bribery, corruption and theft)
- conflict of interest
- improper or unprofessional behaviour (including many types of recognised official misconduct)
- defective administration (including incompetence and negligence)
- waste or mismanagement of resources
- perverting justice or accountability
- personnel or workplace grievances.

The first six of these major categories align substantially with the subjects about which statutory public interest disclosures may be made in several jurisdictions (see Brown 2006:16–19). For the same reason, they also align with the jurisdictions of several of the key integrity agencies that were partner organisations to the project. Consistent with the definition discussed in the previous section, when this report refers to ‘whistleblowing’, it is referring to reports made about wrongdoing in one of these six categories—that is, ‘public interest’ whistleblowing.

Data about wrongdoing types in the last category—personnel or workplace grievances—were also collected in order to maintain the comprehensive approach. In this report, however, they are presumed to constitute mostly private or personal complaints and they are not included in the results for whistleblowing. At times, where relevant, these grievances are nevertheless included in analyses of reporting behaviour and outcomes as a whole, but when this occurs it is made clear in the relevant sections of the report (primarily in Chapters 2 and 3).

As can already be seen, all attempts to measure and categorise perceptions of wrongdoing are subject to their own limitations and are unlikely to ever be perfect. For example, it can be argued that many of the wrongdoing types included in some of the public interest categories are chiefly issues of organisational integrity and will become matters of public interest only if exceptionally serious. This possibility alone, however, combined with the fact that the under-counting and under-reporting of public interest disclosures is already known to be a problem in many jurisdictions, makes it important to include such items. Similarly, some forms of public interest wrongdoing are clearly more likely than others to be triggered first and foremost by a private interest or personal grievance (for example, several of those wrongdoing types grouped as ‘improper behaviour’). As outlined earlier, however, the fact that such disclosures might also involve personal grievances does not detract from their public significance. Indeed, the extent to which these wrongdoing types could also be re-categorised as personal grievances is offset by the likelihood that some ‘personnel or workplace grievances’ excluded from the analyses of whistleblowing in this report involve entrenched or systemic wrongdoing of sufficient seriousness that they could be reclassified objectively as matters of public interest.

For all these reasons, the results given in this research are best understood as simply an approximation of the numbers of cases falling into the different categories used. While the project team is confident that this is a more comprehensive and useful approximation than previously achieved, it should not be seen as definitive.

Methods and further limitations

As set out in Table 1.2, eight surveys were used in the project to collect data on individual experiences and institutional practices. Figure 1.2 outlines the relationships between the resulting data sets. While not the only basis for the findings presented in the later chapters, this large body of empirical research has been instrumental in developing a new overview of how public sector whistleblowing is managed.

Table 1.2 Quantitative research instruments, Whistling While They Work project

Short title	Full title	No. of items	No. of participating agencies				Total surveys	Total responses	Response rate
			<i>Cth</i> ^a	<i>NSW</i>	<i>Qld</i>	<i>WA</i>			
1. Agency survey	Survey of Agency Practices and Procedures (2005)	42	73	85	83	63			
2. Procedures assessment	Assessment of Comprehensiveness of Agency Procedures (2006–07)	24	56	60	31	28			
3. Employee survey	Workplace Experiences and Relationships Questionnaire (2006–07)	50	27	34	32	25			
	Surveys distributed		5 545	8 324	6 343	2 965			
	Responses		2 307	2 561	1 729	1 007	23 177	7 663 ^b	33%
	(Procedures assessment and employee survey)		(25)	(31)	(29)	(17)			
4. Internal witness survey ^c	Internal Witness Questionnaire (2006–07)	82	4	4	4	3	455	240	53%
5. Case-handler survey ^c	Managing the Internal Reporting of Wrongdoing Questionnaire (2007)	77	4	5	4	3	1 651	315	19%
6. Manager survey ^c	Managing the Internal Reporting of Wrongdoing Questionnaire (2007)	77	4	5	4	3	3 034	513	17%
7. Integrity agency survey	Survey of Integrity Agency Practices and Procedures (2007)	45	5	5	3	3			
8. Integrity case-handler survey	Managing Disclosures by Public Employees Questionnaire (2007)	75	3	3	3	3	304	82	27%

^a Throughout this report, Commonwealth figures include a range of Australian Public Service (APS) and non-APS agencies unless otherwise indicated.^b Includes 59 responses for which jurisdiction/agency unknown.^c Written questionnaire response to be followed up with qualitative interview in willing cases (case study agencies).

Figure 1.2 Relationships between data sets

Squares indicate surveys of agency-wide systems and procedures.

Circles indicate surveys of individuals.

Arrows indicate surveys designed to give consistent/comparable data.

First, the agency survey sought data on the extent, content and operation of whistleblowing procedures in agencies, as well as participation in further stages of the research. With the support of the partner organisations, this survey was distributed to almost all agencies of the four participating governments (793 agencies in total), resulting in 304 returns. The participating agencies represented a wide cross-section of government organisations in each jurisdiction, from small to large, covering a wide range of functions and portfolios. They included many of the most major departments and statutory authorities in each jurisdiction, government-owned corporations, the military and local governments of varying sizes.

Similar data on practices and procedures were sought from specialist integrity agencies in the jurisdiction—including partner organisations to the project—through a corresponding integrity agency survey.

Of the 304 agencies that answered the agency survey, 175 also supplied their written whistleblowing-related procedures, which were analysed in a separate procedures assessment, comparing their comprehensiveness and completeness using a 24-item rating scale. The research team developed this scale on the basis of existing literature and the Australian Standard, as discussed in Chapter 10.

The largest single research activity was the employee survey, in which 136 agencies initially agreed to participate, with 118 agencies ultimately doing so. This was a confidential, anonymous survey of a random sample of staff from each agency. While much of the survey design was original, it also drew on instruments used in previous research in Australia and internationally (including US Merit Systems Protection Board 1981, 1993, 2003; Zipparo 1999a, 1999b; Keenan 2002; Near et al. 2004). Target sample sizes were varied according to agency size, ranging from 1–2 per cent of all staff in very large agencies (more than 5000 employees) to 50–100 per cent of all staff in very small agencies (150 employees or less). From July to October 2006, printed surveys were distributed by agencies to approximately 23 000 public employees, with responses returned directly to Griffith University via a reply-paid envelope.

A total of 7663 public officials responded to the employee survey, providing the main data analysed throughout this book. It is the largest data set on whistleblowing ever gathered in Australia, and probably the largest per capita in the world. At times, these data are analysed in conjunction with the results of the agency survey (all 118 employee survey agencies also completed this), as well as the results of the procedures assessment (in which 102 of the employee survey agencies also participated).

In addition, 87 of the agencies volunteered to participate in further research as ‘case study agencies’, with 15 agencies selected by the research team for this role in May 2006. In this report, the further data drawn from these agencies will be reported in aggregate, with differences between organisations to be analysed in later publications. It is significant, however, for the data reported here, that this smaller group of 15 agencies is just as diverse as the larger group of 118 agencies from which the employee survey data set is drawn, with many of the results confirming that as a group, the experiences of the case study agencies remain in many ways typical of those of the total group. In all, 2116 responses to the employee survey were received from the case study agencies, meaning that while these agencies represented only 13 per cent of the larger group, their respondents accounted for 28 per cent of the total employee survey data set. Accordingly, interim results from the three further case study agency surveys

are also reported here, not only for their interest in their own right, but because these are likely to be typical of organisational experience more generally.

The purpose of these three surveys was to gather targeted, in-depth information about the whistleblowing arrangements and management practices of these agencies and the experience of particular target groups of staff. In each case, respondents were also invited to volunteer for a confidential interview. Each survey was designed for consistency of approach with the employee survey and with each other.

The internal witness survey was a long, written questionnaire designed to elicit more extensive information from whistleblowers. These were recruited between November 2006 and August 2007 through invitations for individual staff to contact the research team (in confidence), distributed in three ways: by internal advertisement within each agency; by direct contact from agency management to known whistleblowers; and by a number of partner organisations (integrity agencies) to known whistleblowers relevant to the case study agencies. This recruitment strategy produced 455 expressions of interest to participate from these 15 agencies—a far lower number of whistleblowers than are known to exist within these agencies based on the results of the employee survey. This response itself tends to confirm that recruitment strategies that rely heavily on employees self-identifying as a ‘whistleblower’ are only ever likely to capture quite a small, even if important, proportion of the total whistleblower population. The data set was further limited by seeking information only in relation to reports of wrongdoing made between July 2002 and June 2004, to ensure that respondents’ experiences were relatively current and more likely to have been dealt with under current procedures, as well as reflective of a similar two-year period to that studied in the employee survey. Accordingly, only 242 individuals ultimately returned surveys, of whom only 114 fit fully within the requested parameters, but who nevertheless provided detailed, quality information.

The case-handler and manager surveys were slightly shorter questionnaires designed to elicit more extensive, comparable information from these two groups within the case study agencies. Case-handlers were defined as including: internal investigation, audit and ethics staff; human resource management staff; internal and external (for example, contracted) employee welfare and assistance staff; and union staff. Surveys were typically distributed to all, or a large proportion of, the identifiable case-handlers in each case study agency and to a random selection of managers (typically 5 per cent of the total population of managers or 150 individuals, whichever provided the larger figure). Data collection occurred from April to December 2007. This report includes analysis of the 828 responses received from both groups (13 per cent of all surveys distributed): 315 from case-handlers (many of whom also identified as managers) and 513 from managers (who did not necessarily also identify as case-handlers). In

addition, a corresponding integrity case-handler survey was distributed to relevant case-handling staff from specialist integrity agencies in each jurisdiction (including partner organisations).

All data were collected in accordance with ethical approvals issued by the Griffith University Human Research Ethics Committee. All instruments were piloted in the final stages of design and refined in light of pilot results. Copies of the instruments are available on the project web site: www.griffith.edu.au/whistleblowing

As with all data sets, there are several limitations in the way in which it should be interpreted, as noted in relevant sections of the report. While care was taken to recruit a large sample size across the four jurisdictions, the study did not provide coverage across the full Australian public sector population, therefore its generalisability was constrained. Although a large number of agencies participated, clearly a great many also elected not to do so. As a result, it is arguable that the results most likely provide a best-case scenario of the ways in which whistleblowing is currently handled in the public sectors concerned, since agencies with poorer systems might have been more likely not to participate. Whether this is the case is obviously unknown; it is known that some agencies with significant integrity challenges did choose to participate, in order to find ways to rectify these problems. Some of the results are also sufficiently concerning to suggest they might well be realistic. Nevertheless, the sample of agencies was not total.

Within agencies, the extent to which the survey samples and respondent groups are representative of the demography of individual agencies has not been established. While participating agencies were requested to draw random, representative samples, whether or not they really did so was not within the researchers' control. By sampling current employees, the major employee survey data set does not include former employees, such as those who might have observed and reported wrongdoing but have since left the organisation. This is a particular issue for Chapter 5, which includes analysis of the incidence of reprisals reported by whistleblowers. An effort is made there to estimate the alternative range of results that might have been expected had former employees been included in the sample.

The study relies on the self-reported perceptions of individual survey respondents, which are inevitably subject to errors in recall and specificity.

The bulk of survey results presented are quantitative, supplemented in several places by additional qualitative accounts provided by survey respondents as free text. It can be argued that quantitative research can only ever be of limited value in understanding the true nature and true lessons of any particular whistleblowing incident, given the complexity of all such incidents. In particular, it has been argued that only detailed case studies of more prominent cases will

provide meaningful insights into the challenge of achieving better outcomes. Qualitative data can indeed play a useful role, and interviews with whistleblowers, case-handlers and managers from the case study agencies are providing the basis for further analysis in the second report. Here, however, quantitative research methods are used to paint a larger picture across thousands of individual reporting incidents, in order to help shift attention from whistleblowers as individuals to the performance of organisations in response to whistleblowing as a process. Whatever their limitations, the data reported in this book provide a new and different basis for understanding how whistleblowing is being managed in the Australian public sector.

Continuing analysis: towards best practice

As already mentioned, the analysis here—combining the quantitative data and evaluations of procedures and legislation—provides a first major output from the present research, but is also subject to a second phase. The overall aim is to use the improved understanding of how whistleblowing is being managed to inform assessments of what might constitute reasonable best-practice systems at the agency level. The final results will be the subject of further publications from this project. These will amplify a new framework for internal witness management systems already developed by the project team, with the participation of representatives of the 15 case study agencies, and revised in light of comments received on the draft report (Appendix 3). The framework sets out the different dimensions and sub-dimensions contained in existing and prospective approaches to the management of whistleblowing in the agencies and jurisdictions studied.

The framework in Appendix 3 has three purposes. First, it sets out the bases on which quantitative and qualitative data about the current performance of agency systems can be compared and analysed. That research involves further analysis of the quantitative evidence for insights into how individual agencies are addressing each of these dimensions and sub-dimensions and lessons as to the measurable effectiveness of these efforts. In addition, the further research involves a more qualitative picture of how systems currently work in practice in the 15 case study agencies, based on confidential interviews with individual survey respondents from those agencies (whistleblowers, case-handlers and managers). The result will be a more detailed picture of how agency procedures work in practice.

The second purpose of the framework, flowing from this, is to set out a new structure for the development of best-practice procedures in a wide range of public sector agencies. While there will be variations between different types of agencies in the precise way in which each of these dimensions is addressed, overall, the framework provides a check list of all the elements that should be present if an agency is seeking to establish a comprehensive approach to the

encouragement and productive management of whistleblowing. The further project publications will therefore also use the extra data to present a guide to how better systems might be developed and implemented using this framework.

Finally, it is clear that the effective management of whistleblowing often relies on broad transparency, including the relationship that line agencies have with the central integrity agencies in their jurisdiction. Whistleblowing is a process that also goes beyond integrity agencies to the interests of the public at large. While focused on the procedures and systems needed at the agency level, an effective framework such as that outlined in Appendix 3 is also dependent on support and reinforcement from wider policy settings, including legislative regimes. Such frameworks are likely to command full employee confidence only if supported by the right statutory provisions, placing internal and regulatory whistleblowing in their public context and dealing more effectively with the obligations of employers.

For all the new insights that can be gained from this research, the management of whistleblowing remains a complex and challenging process. The good news is that there could be greater scope than previously appreciated for maximising the positive impacts that whistleblowing can have on organisational and public integrity, and for reducing the negative impacts of the whistleblowing process on organisations and individuals alike. The bad news is that much of this potential continues to go unrealised. Even where statutory frameworks for whistleblowing are strong, and agencies are endeavouring to achieve better outcomes, the new picture of whistleblowing suggests that the effort is often not being directed where it is really needed. This research is intended to help public sector agencies grapple more effectively with the challenges of internal witness management.