

# Whistling While They Work: Enhancing the Theory & Practice of Internal Witness Management in the Australian Public Sector

## **Australian Government**

Commonwealth Ombudsman  
Australian Public Service Commission  
*Charles Sturt University*

## **Western Australian Government**

Corruption & Crime Commission  
WA Ombudsman  
WA Public Sector Standards Comr  
*Edith Cowan University*

## **Queensland Government**

Crime & Misconduct Commission  
Queensland Ombudsman  
Office of Public Service, M&E  
*Griffith University*  
*University of Queensland*

## **New South Wales Government**

NSW ICAC  
NSW Ombudsman  
*University of Sydney*

## **Victorian, ACT & NT Govts**

Ombudsman Victoria  
NT Comr for Public Employment  
ACT Chief Minister's Dept  
*Monash University*

Transparency International  
Australia

## **Australian Research Council**

Socio-Legal Research Centre  
Key Centre for Ethics Law Justice & Governance

## **Aim**

To identify and expand 'current best practice' systems for the management of professional reporting, public interest disclosures and internal integrity witnesses in the Australian public sector, including more effective whistleblower protection.

## **Objectives**

1. Describe and assess the effects of whistleblower legislative reforms on the Australian public sector over the past decade, including effects on workplace education, willingness to report and reprisal deterrence;
2. Identify what is working well and what is not in public sector internal witness management, to inform best practice models for the development of formal internal disclosure procedures (IDPs) and workplace-based strategies for whistleblower management;
3. Identify opportunities for better integration of internal witness responsibilities into governance of organisations, including improved coordination between the roles of internal and external agencies, and strategies for embedding internal witness responsibilities in basic concepts of good management;
4. Support implementation strategies for best practice procedures in case study agencies, including cost-efficient options for institutionalising and servicing such procedures in a range of organisations and settings, as well as legislative and regulatory reform to support updated best practice.

# **Managing Internal Witnesses in the Public Sector: Meeting the Challenge, Charting the Way Forward**

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**A One-Day Public Symposium  
Tuesday 12 July 2005  
8.30 a.m. – 5.00 p.m.  
The Shine Dome,  
Australian National University, Canberra**

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## **Management of public interest disclosures / whistleblowing / internal witnesses is about...**

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- 1. *Legislation (legal risks & obligations)***  
***e.g. s.16 Public Service Act 1999***
  - 2. *Central government commitment to / coordination of legislative responsibilities***
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- 3. *Internal disclosure procedures (IDPs)***  
***(or internal reporting systems)***
  - 4. *Agency IDPs in practice (as against theory)***
  - 5. *Individual managers' attitudes/practices***
  - 6. *General staff awareness & attitudes.***

## ***Whistleblowing***

Near & Miceli (1985: 4): “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.”

## ***Public interest disclosure***

## ***Protected disclosure***

## ***Internal witness***

Developed by the NSW Police Service, as a wider term encompassing not just whistleblowing but a range of roles through which employees assist integrity efforts, including passive and uninvited ones, e.g. providing information to investigations which they did not themselves trigger.

## ***The diverse reality of whistleblowers & internal witnesses...***

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- ***naïve whistleblowers*** - who come forward without considering there might be risks of reprisals or negative workplace reactions;
- ***trusting whistleblowers*** - who come forward anticipating there are some risks but who may underestimate them or assume that dealing with them will be simple;
- ***risk managers*** - who anticipate the risks more accurately and are likely to already have higher coping skills, but are unlikely to come forward unless confident of support;
- ***risk avoiders*** - who over-estimate the risks, underestimate the solutions and are even less likely to come forward, but who may end up pleasantly relieved; and
- ***'kamikaze' witnesses*** - who proceed without regard for reprisal risks. (Anderson 1996)

Transport, Corrective  
Services, Education,  
Health, Police

104,908  
public officers (FTEs)

1,845  
internal witnesses per annum

1.8%



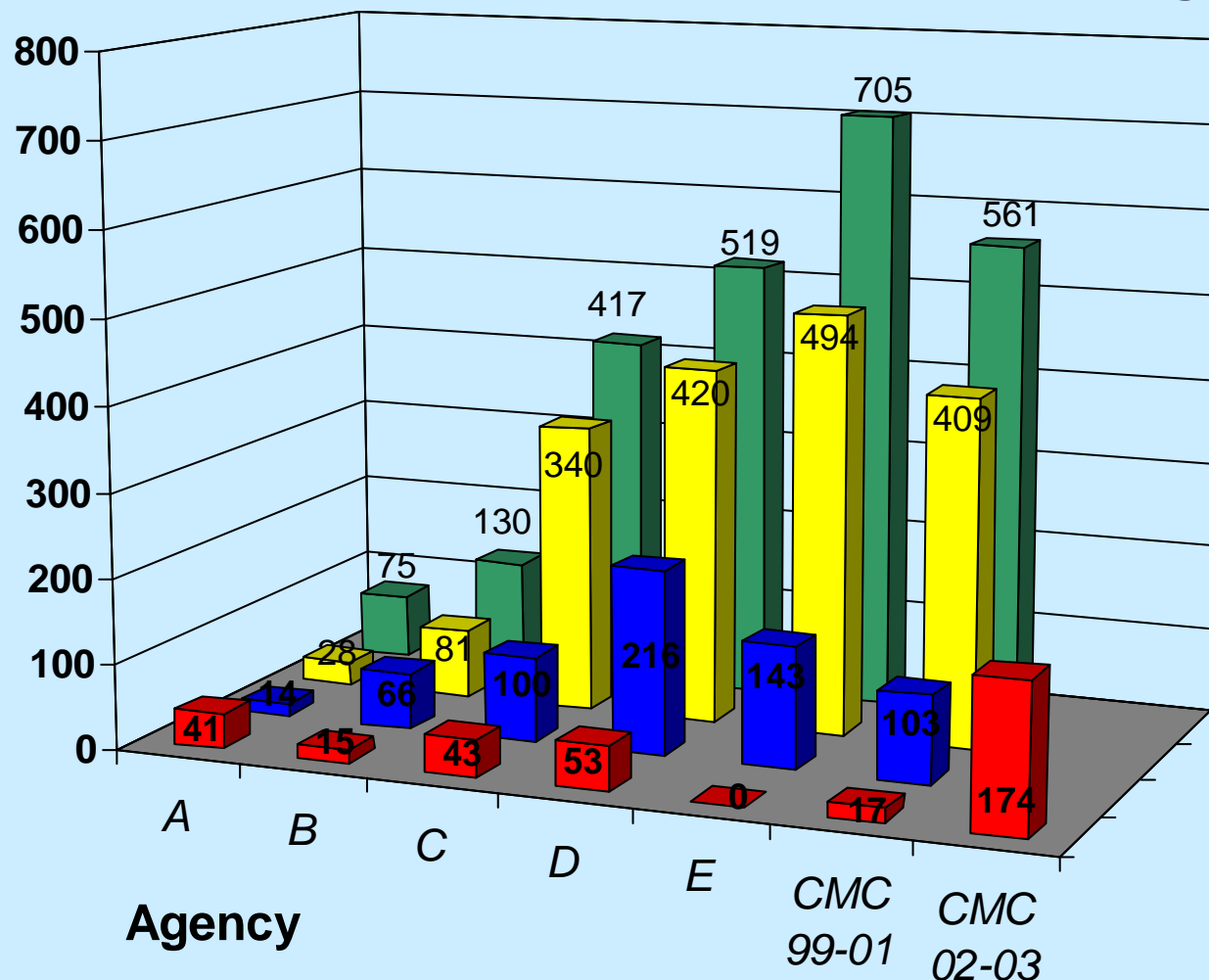
Queensland Public Service

149,634  
public officers (FTEs)

approx. 2,600  
internal witnesses per annum

## Estimated annual internal witness caseloads - select Qld agencies

% of allegations  
received annually  
(average 1999-2001)



- Public interest disclosures (reported in Annual Reports)
- Agency estimates number of 'serious' internal complaints
- Estimated total internal complaints (serious and less serious)
- Indicative total internal witness caseload (complaints & others)



## **APSC State of the Service Report 2003-2004**

**11% of employees witnessed serious breach of APS  
Code of Conduct;  
... but only half said they reported it.**

**56% of all suspected breaches of Code identified by  
supervisors/managers or work colleagues;  
... but only 2.3% of investigations resulted from 's.16  
whistleblower reports'.**

**“The current framework has caused a significant level of  
confusion” (p.112).**

**APS Best Practice Guide on Breach-Handling.**

**APS Code... fraud, criminal offences...  
maladministration... waste of public funds.**

**Figure 3: Key ingredients of a positive reporting climate**

Ingredient		Employee statement	Key responsibilities				
			Junior mgt	Middle mgt	Internal investig-ators	Snr mgt	Law/ Policy/ CMC
1.	Obligation to report	'It's my job to report my concerns'	<b>x</b>	<b>x</b>		<b>x</b>	<b>X</b>
2.	Clear understanding of internal witness roles	'I can report without getting tagged as a troublemaker'		<b>x</b>	<b>x</b>		<b>X</b>
3.	Good internal investigation systems	'I trust the agency to investigate this quickly, fairly and accurately'		<b>x</b>	<b>X</b>	<b>x</b>	<b>x</b>
4.	Internal witness support strategies	'My managers will take steps to see I don't suffer unnecessarily'	<b>x</b>	<b>X</b>	<b>x</b>	<b>x</b>	<b>x</b>
5.	Responsiveness to reprisals	'If anyone undertook a reprisal, they'd be in trouble'		<b>x</b>	<b>X</b>		<b>x</b>
6.	Recognition	'The agency will thank me in the end'		<b>X</b>		<b>x</b>	

**X** indicates where primary responsibility for this issue lies at the present time.  
**x** indicates where key additional/supplementary responsibilities lie.

## What do we hope to offer?

1. Understanding of how to achieve better reporting climates, based on what is actually happening in organisations.
2. Grounded 'best practice' internal disclosure procedures (in particular, internal witness management strategies that are custom-made for participating & like agencies).
3. Blueprint for reform of legislation & procedures to effectively support & integrate best practice into both (a) line agency and (b) central agency operations.

## What do we need to do this?

1. Agencies to participate in general agency and employee surveys (consistent with but additional to State of Service).
2. Case study agencies: closer analysis of internal witness caseloads, methods & outcomes (financial years 2002-03, 2003-04)

Independent structured interviews of:

- *complete / 'true' sample of internal witnesses (what worked?)*
- *casehandler perspectives (problems & potential solutions)*
- *perspectives of the relevant managers (organisational embedding).*

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