

Paul Chadwick ([00:00:00](#)):

Good afternoon. My name is Paul Chadwick, and I've been asked to chair this session called lifting the lid on whistleblowing. I'll say a little bit more about our panelists. Each of them speaks they are Julian Morrow, Guy Peers, Norman Swan, and Marian Wilkinson. Just a few words on format. After short introduction, I'll introduce the speakers and they'll speak for each about 15 minutes and we'll have questions at the end. There are microphones here and upstairs on the balcony, and I've been asked also to remind you, and I may well forget at the end that we must completely vacate the venue at the end of the session. Even if you're planning to come back for the next one, whistleblowing Irene, a blonder in her study in the codes of ethics in the professions text describes it this way. The whistleblower steps outside the approved channels of communication to disclose in the public interest information to an audience who would not normally be entitled to it.

Paul Chadwick ([00:01:17](#)):

She identifies three fundamental characteristics of the whistleblower. The first is that he or she is acting not as a first resort, often as a last, and that is the priority teams to report the concerns internally did not receive a satisfactory response. The second characteristic she identifies is that there is a public interest motive to this whistleblowing whistleblowers are motivated by a desire to react against a harm or potential harm to the organization or the community people blow the whistle about conduct, which has ominous consequences for the community. So the public interest dimension we're told is fundamental to properly designating an act of disclosure whistleblowing third, and interestingly identification of the whistleblower is an accepted consequence. The whistleblower is willing to be identified as the source of the information that is a whistleblower is willing to take responsibility for his or her actions. The implication is that the whistleblower is concern for preservation of ethical values, overrides his or her concern for self-preservation. The whistleblower acts in the knowledge that the active disclosure will open the whistleblower to risks of loss of personal or financial security open to the risk of counter accusation, open to the risk alienation, but by are compelled to act and to stand by their actions.

Paul Chadwick ([00:03:08](#)):

Let's see a four different views on whistleblowing. Can I begin by introducing Norman Swan, Dr. Norman Swan in 25 years with the ABC has given great service to that organization, its audiences, and to science and health journalism, medically qualified in Scotland. Dr. Swan holds postgraduate qualifications in pediatrics, prolific in broadcasting and in print widely honored in 2004, he was awarded the medal of the Australian academy of science. A rare distinction. If this be the information age, Norman Swan is a kind of GP to the nation.

Speaker 2 ([00:04:07](#)):

[Inaudible]

Norman Swan ([00:04:08](#)):

Thanks, Paul. Didn't realize how to talk for 15 minutes, but we'll see how we go. I think Marianne and I as working journalists, not me is Marin has a much longer history than me as an investigative journalist, but some of the stuff that I've done over the years has been investigative journalism and investigative journalism. We like to think exposes corruption, things that are wrong with the society and really fulfills the essence of what we hope is the fourth year was originally, was it the Edmund Barton said it was the fourth estate the the four farm of a democracy which really to use Don ship's words keeps the bastards

honest. We couldn't do our work without whistleblowers. And it's a rather pejorative term. And it's hated by the people who were accused and the and really the history of whistleblowing is that whistleblowers come off worse than the people that they accuse.

Norman Swan ([00:05:16](#)):

It absolutely rings true. The institutions put the wagon train into a circle and it's the whistleblower who remains on the outside. The belief is that whistleblowers are vexatious. They have a Jesus complex where they want to monitor themselves and and it makes it makes it very difficult when somebody comes to me, I should just really illustrate one of the best ways of illustrating the dilemma of the whistleblower is what happens when a whistleblower comes to see me about a story and they sit down and I say, before you speak let me just tell you what, in medical terms I would call in for, I'll give you informed consent.

Speaker 2 ([00:06:08](#)):

[Inaudible].

Norman Swan ([00:06:08](#)):

So I say to them, you think that by coming to me in the media, you're going to get satisfaction that this is going to be the solution to your problem. You ain't seen nothing until you've gone public. Your reputation will be in the dust. Anything that you've done wrong in your past will be exposed. And even if you haven't done wrong, people will invent it to make it seem as though you've done wrong. You've really got to want to tell the story. And I'm telling you this as an investigative journalist, because you've got to stay with me through this. If I go down the line, you've got to be there when I go into court because of what Marian and I will both tell you, is that when you do investigative journalism, you spend a lot of your time in court because almost always it ends up in litigation. And and, and many of us investigating investigative journalism, wonder why we do it when we spend it. I'm, I'm, I'm in the middle of a court case now, which dates back to something I wrote for the Sydney morning Herald in 1989.

Speaker 2 ([00:07:23](#)):

[Inaudible]

Norman Swan ([00:07:23](#)):

These things have a long tail and you need the whistleblower to be by your side. And it's almost no point in going forward unless they don't. So a lot of, and so I tell them exactly what's going to happen to them and how awful it's going to be. And I don't overlay, I don't overbuild it. I just, I, I just tell them exactly what it is. And a lot of them go away and I don't do it for them to go away, but a lot of them do go away, but some of them stay and when they do stay and they go through it, they actually tell me afterwards, they didn't believe me. [inaudible],

Norman Swan ([00:08:01](#)):

It's one of the toughest things to do to be a whistleblower. You've really got to be confident in your sense of rightness. You've got to be confident that what you're doing is for the greater, greater good, where, because there are long and dark times ahead for you. It shouldn't be like that, but it is. And the problems for whistleblowers are that you is that the institutions in the sense that you're trying to protect, don't have a sense of self protection about them. I often tell people who take on senior

management roles in institutions, or on large organizations to read a book called the March of folly by the late American historian, Barbara Tuchman. And in that book, she, her, her essential thesis is that nations get into when they don't act selfishly when they don't act selfishly. So he, she, she quotes for example the whole issue of taxation without representation in the American colonies, the Boston tea party, et cetera, and how that, if Britain, if great Britain had really understood and being selfish about its own interests, it would have given representation because that would have been the way of retaining the colonies, but they didn't have the foresight to actually see that.

Norman Swan ([00:09:27](#)):

And so I've, I have seen this again and again and again, and I, I have become extremely disillusioned with the ethics of large Australian institutions, extremely disillusioned, because they think they can resist. They think they have the power to just power through.

Norman Swan ([00:09:51](#)):

So my first experience with was with foundation 41, the Institute, the research group was set up by a Dr. William McBrian. They put the wagons into a circle, they try to resist, you know, the part of the Sydney establishment. Not long after that, it was the university of new south Wales with another story that actually never ended up getting to where on four corners. And then there was another story with the Queensland university of technology. So the whistleblower with the McBride story, Phil Vardy his life was wrecked through the experience of blowing the whistle on a bill McBride. And it's taken them a long time to get back in this Corinne who blew the whistle on a banana or a search of all things in, at the university of Queensland. University of technology ended up being run out of town and having to go back to south America and the whistleblowers and the Bruce Hall case, again, with the university of new south Wales have been vilified, utterly vilified indirectly, and sometimes directly by that institution.

Norman Swan ([00:10:56](#)):

The failure of the university of new south Wales to respond adequately to the Bruce Hall affair is quite obviously appalling and still Mars that your university's reputation today, basically people made a decision, which is repeated again and again and again. And the history of whistleblowing is that people will protect the powerful against the weak, and that's what happens. But what often happens is they damage their own reputation along the way, and they don't act selfishly. They don't act selfishly. Harvard's had its problems. Other great institutions have had their problems hopefully learned. I'm not too sure the extent to which we've learned the lessons in Australia. Thank you.

Speaker 2 ([00:11:50](#)):

[Inaudible]

Paul Chadwick ([00:11:56](#)):

Normally, can I ask you to take a question on notice for later there were, I thought three interesting questions. So try not by the topic today. The first of them is what purposes does whistleblower whistleblowing serve? The second one? How do we encourage the best of it? And the third, what duties do we owe to the whistleblower who acts in good faith? Can I ask you to think about the last one and come back to it later when you've had a chance to ponder it? Our next speaker is Guy Pearse. He spent 18 years working in environment policy, his first book, high and dry, newly published examines Australia's response to climate change. He's described as having been variously industry lobbyist,

political minder, Clinton gore re-election campaign, advanced staffer and spin doctor. So he knows about how to construct whistles and how to vary their tune as well. Please welcome God. [inaudible]

Guy Pearse ([00:13:22](#)):

Thanks very much. I've taken the electoral interpretation of the term, whistleblower on the assumption that everyone on the panel must be one. So you'll forgive me for that. Ladies and gentlemen, Australians have a peculiar relationship with whistleblowers. It seems to me, we hate tall poppies, but we also hate people ratting on their mates in Australia. So we respect the investigative journalist and we love the chaser, but people blowing whistles, people, blowing whistles as, as part of their job are admired by all but their victims. But we're somehow a bit reticent about people blowing the whistle on their mates. All whistleblowers of course take take risks to serve the public good journalists are accustomed to legal threats as we've just heard. And we've all seen Julian Morrow put his body on the line, but when someone blows the whistle on their own colleagues, the sacrifice can often be greater. The consequences more in enduring. They often lose their job, their friends, their PR, and their prospects are usually diminished. It's a lonely and dangerous road normally destined for short-term fame and longterm obscurity. So what drives someone to take that crazy road? Well, just this week I released a book exposing John Howard's response to climate change, what it means who's behind it and why it's an absolute disaster for Australia. So here's the liberal party member, a former Howard government spin doctor undermining his own party in an election year. [inaudible]

Speaker 2 ([00:15:07](#)):

Now

Guy Pearse ([00:15:07](#)):

It's too soon to judge the impact of my actions or the personal costs. So let's focus instead on what drove me down this path. I've heard, I've spent almost 20 years working in and around the liberal party federally. And for the past 13 years, I've been studying environment policy. And I hoped originally that this would be the niche where I would make my long-term contribution. Now for the past 10 years, I've been heavily immersed in the issue of climate change. And more specifically, the Howard government's response to it. First is the environment minister, speech writer, then consulting to the federal environment department and the greenhouse office as a lobbyist for everyone from the coal and Ella minium industries to the sugar and forestry industries that each with a very different stake for some in environmental NGOs and most Reese and sorry in parallel researching a PhD for seven very long years. I can tell you, I'm looking very closely at the politics behind the policy. Now I had hoped that exposure to climate change from so many different angles might be a positive career move. I was wrong. Ultimately, my plan a was to move back to Queensland, where I grew up and to run for federal parliament. I wasn't to know that a big liberal party U-turn on climate change would becoming both John Houston and Andrew peacock while it's lost in the midst of time, back to aggressive emission reduction targets by Australia.

Guy Pearse ([00:16:42](#)):

Oops, excuse me. And in 1997, when I was writing speeches for the environment, minister Australia actually signed the Kyoto protocol. We said it was good for the environment. It was good for jobs. And it looked very much at the time like we would ratify. It seemed like the start of a transition towards cutting our emissions and cleaning up our economy in keeping with prior liberal party policy. Then to my surprise and horror, that started to change. John Howard took charge of greenhouse policy personally,

and then went charging off in a very different direction. He decided he wouldn't ratify the Kyoto protocol without the United States. He kept polluters from paying for their emissions twice by blocking emissions trading proposals in cabinet. He wound back support for here and now low emission and renewable technologies. And he beefed up subsidies to so-called clean coal technologies that are neither here nor now on any scale that matters.

Guy Pearce ([00:17:44](#)):

He and George Bush then masterminded an alternative to the Kyoto protocol, the Pacific partnership on claim development and climate otherwise known as the IP six. The rhetoric also started to shift Australia. They said is leading the world. We're on track to meet our Kyoto target. And we're spending a whopping \$2 billion on climate change. Australia is only 1.4% of global emissions. If we stopped polluting tomorrow, growth in China's emissions would wipe out the emissions. So by us and less than nine months. So why cut our emissions ahead of others and risk wrecking the economy carbon and Aussie jobs would just leak off shore with no environmental gain. After all I said, cheap fossil fuels the backbone of our economy, our clean grain uranium and LNG exports are cutting emissions abroad, and we're even on track to become an energy superpower. What's more, the AP six is superior to Kyoto because it includes all the world's biggest emitters.

Guy Pearce ([00:18:54](#)):

Now to many people that all sounded plausible and to some people it still does. But my problem was having spent a decade working in such close proximity to all this. I knew what lay behind the rhetoric that I'd once helped to write on you about the lucky headstart for the Australia, head in its Kyoto target that enabled us to increase emissions 27% and still reach it on you that are \$2 billion climate change budget was spread over 25 years and that an 81 year old John Howard would have to win another four elections before the last dollar was spent on you. That Australia was the 10th biggest emitter in the world and the highest per capita developed country emitter. And I knew that if China stopped polluting tomorrow, global emissions would still rise 87% by mid century. I also knew that the mining metals and energy industries for which our greenhouse policy was tailored to suit well less than \$1 in 10 and less than one job in 20 in the Australian economy.

Guy Pearce ([00:20:04](#)):

I also knew that there was a pile of internal government research showing that Australia could have its greenhouse emissions and its GDP would still more than travel by mid century while real, real wages, roughly doubled. I knew that while John Howard was proclaiming us in energy superpower, that we actually started paying more for energy imports than we made from energy exports and on you that our coal exports generated more emissions abroad than we do at home. And that those coal exports are projected to double by 2030 lastly, on you that the AP six so often talked up as the alternative to the Kyoto protocol requires no emission cuts of any country ever.

Guy Pearce ([00:20:51](#)):

But two things concern me above all else. First on you, that internal government projections showed that Australia was on track to have its emissions increased by 70% by mid century, which is the equivalent of adding 17 million cars to the 14 million already on our roads. While John Howard was climbing to lead the world in banning the incandescent light bulb, I knew that we needed did 800 announcements of that magnitude in order to cut emissions by the 60% that scientists are saying it is essential at a minimum. So for all the talk of practical action, the cumulative effect of my own party's

policy amount of the practically, nothing, the cabin leaking out, wasn't the worry. It was all a cabin flooding in. Now, the second thing I came to know was that Australia's biggest polluters were driving this policy. The government had been blinded by what I call a quarry vision of the economy, which confused the interest of the resources and energy sector with the national interest and our greenhouse policy was being tailored to that vision.

Guy Pearse ([00:22:01](#)):

Now had I just been a typical Howard government staffer throughout this whole decade period, I may not have woken up to it all, but I'd seen the policy evolve from too many angles, not to notice what was really going on. And most tellingly, my PhD research revealed the self dubbed greenhouse mafia, a group of lobbyists in Canberra working for our worst polluting industries in typed interviews with me more than a dozen of them, they explained they were successfully, and this is their term reverse managing the Howard government's greenhouse policy, even writing cabinet submissions and ministerial briefings that should only ever be written by bureaucrats. The more research I did, the clearer, it became that a very different type of carbon capture was going on than the one John Howard so often uses to promote so called playing call. The industry is represented by the greenhouse mafia, had embedded their people and they've used throughout John Howard's very small greenhouse circle of trust.

Guy Pearse ([00:23:06](#)):

Australia's policy was heading headed in a very dangerous direction. Emissions were soaring along with our contribution to the environmental consequences. Worldwide. Meanwhile, carbon liabilities were being piled up and left for future generations to pay once greenhouse emissions, inevitably cost money, and the huge adaptation task facing future generations are challenged, which even the government has acknowledged as akin, if not worse than the aging population was being virtually no road worse. There were no plans to change. Course. My own party was engaging in a up polluters, ran the policy while we ran the spin and it was all a carefully packaged display of conspicuous, greenhouse compassion dressed up as practical action in the run-up for an election. And it all has one common time to avoid cutting our emissions or making our biggest polluters pay. So in the face of this deception, I made the, a very difficult and life-changing decision to let the public know, to give them the tools to strip the policy of its rhetoric before it's too late, having contributed to the government's rhetoric along the way before the U-turn, I felt I had an obligation to let people know what was really going on behind the smokescreen.

Guy Pearse ([00:24:30](#)):

So I wrote the book. I'd seen the issue from so many angles that I would not so much be blowing the whistle as blowing the pan pipes. And we all know how annoying pan pops can, but before writing high and dry, I did try to raise this in house was the last resort as normal as sin. I raised it with at least half a dozen MPS, some Karen Howard government ministers, but no one wanted to know. Now, some of course now among that group will say that I betrayed the party and nothing I do or say right now will persuade them otherwise for them. It's too hard to contemplate the reality that I remain true to the party while our leader abandoned its policies and confused polluter interests with the national interest in the end, for me letting Australians know the truth about the country's response to climate change mattered boast, the issue was too important, the direction too dangerous, the deception to great and why we should stick by our mates. Of course, I know Australians agree with me that our country should come before our party.

Guy Pearse ([00:25:42](#)):

It's of course, a little sad for me to bid farewell to that much more mainstream contribution I had planned, but I have no regrets. And I have every confidence that my actions are serving the public good while the trend is against me, I will try as hard as possible to avoid that. Long-Term obscurity once, once my short-lived infamy fades to fight away. What, after all be serving the interests of the very forces I'm exposing in the book. And you never know, you just never know you're lucky enough in the lucky country. Maybe I can find a way to join our esteemed panelists in blowing some kind of crude wind instrument for a living after all there's lots of instruments to choose from. And there's so many issues out there just crying out for our attention. Thank you.

Speaker 2 ([00:26:43](#)):

[Inaudible] Thank you guys.

Paul Chadwick ([00:26:55](#)):

The next speaker is someone with like Norman, a journalistic acquaintance with whistleblowing Marian Wilkinson she's one of Australia's finest journalists from her beginnings in Brisbane radio. She joined the national times and served as that Piper's Washington correspondent, a posting to which she returned for the Sydney morning Herald and the age in 2002, a former reporter and executive producer of ABC television's four corners program. She's won numerous awards, including a Walkley and a low-key among several books. She co-authored with David ma dark victory. Please. Welcome Marianne Wycliffe. [inaudible]

Marian Wilkinson ([00:27:53](#)):

Thanks. I just like to tell a little story to you about a whistleblower. And this story is about a whistleblower who had a bit too much integrity and a very bad sense of timing. His name was Dr. John G and he was one of the best and brightest stars in our department of foreign affairs. He was a world renowned expo expert on chemical weapons. He worked for the United nations as a weapons inspector and did he was so highly regarded at the UN that he was given a central role in overseeing that body's chemical weapons convention shortly after the invasion of Iraq and the fall of Saddam Hussein Dr. John G and a colleague of his rod Barton were asked by us intelligence to join the Iraq survey group. You may remember that was the CIA led hunt that was supposed to find Saddam Hussein's weapons of mass destruction after the war.

Marian Wilkinson ([00:29:03](#)):

You might also remember that this was a highly charged operation, the credibility of the U S president, not to mention our own prime minister and that of Tony Blair rested on finding these weapons. They were after all the justification for the war, all three leaders had insisted that they were there, both Dr. John G and rod Barden approached the job as professional scientists. They knew full well the implications of the hunt, but they were not distracted by the political considerations. Like many of the scientists on that weapons hunt, they pretty quickly came to the conclusion that there were indeed no weapons and no active weapons program, but soon after while they were in Iraq, both felt intense pressure from the CIA pressure that came from Washington to stall in reporting these findings. And the reason for that stolen was clear that all governments as the us and Britain did not want the findings made public so closely on the heels of the invasion, recognizing this political pressure, Dr.

Marian Wilkinson ([00:30:23](#)):

G decided to resign from the Iraq survey group, as he later told me, I had lost confidence in the integrity of the process and that being the case, I felt there was no alternative, but for me to leave in Washington and in Canberra, there was great consternation about Dr. Jason pending resignation after some tutoring and froing. He finally left Iraq when he did. In fact, just before he did by our ambassador in Iraq, he sent a six page damning letter back to Canberra in it. He explained his resignation from the Iraq survey group saying bluntly. At one point it was run quota by the CIA to protect the CIA. He told us how evidence that did not support the CIA's prejudices were not recorded in reports. This report and letter of his was given to the offices of foreign minister, Alexander downer and the prime and the office of the prime minister, but when he returned to Canberra and when he personally briefed Alexander downer, the head of the defense department and the peak intelligence body O and a no one acknowledged either his letter or his report, he emailed his colleague, rod Barton, who was still in Iraq at the time telling him.

Marian Wilkinson ([00:31:52](#)):

And I quote from his email, the reason why defense has not seen my letter, I discovered this afternoon is that downer has issued instructions. It is not to be distributed to anyone that information he told Barton had been given to him by a senior intelligence official.

Marian Wilkinson ([00:32:12](#)):

Most importantly, for months after they received Dr. G's letter. And after Alexander Donna was briefed by him, neither downer nor the prime minister would admit that there were no WMD in Iraq. And that the hunt had been discredited by two of Australia's top experts about a year after this rod Barton, you may remember when public on four corners talking about the coverup over the WMD, as well as some issues to do with prisoners at Abu Ghraib. But at the time Dr. John G stayed silent by the time I returned from Washington labor had called a Senate inquiry into rod Barton's claims. However, when that inquiry began, Dr. G refuse to appear at it. I was told at the time that Dr. G believed his consultancy work for the government, which included his lifelong work on chemical weapons control would be jeopardized.

Marian Wilkinson ([00:33:17](#)):

If he went public at the time, I could not verify this but myself and many journalists from the ABC, the Australian, and other outlets made approaches to Dr. G to come forward. He did not. And so when the Senate report was produced, it was a very thing documents leaving Bart on essentially as a witness, without corroboration, and the reports sank without a trace. Sometime after this, I got a tip off that Dr. G finally wanted to talk. And in some ways, frankly, I wondered whether there was a story here worth pursuing. I thought, you know, the time had passed by them. We all knew there was no WMD. And also frankly, the government's credibility on Iraq was shot, but I was kind of intrigued that he finally wanted to talk. So I put in the call several hours later, I came away with the story that I thought might be more important than the simple story of exposing the, how it governance spin on a rock and WMD.

Marian Wilkinson ([00:34:28](#)):

It was a more subtle story in a way, but I think quite important it's about how the government can make advice. They don't like disappear. And how those who give that advice have their credibility, marginalized talking to Dr. G I was quite shocked at how not only downer, but all his former senior colleagues in Canberra had failed him, failed him one of their own. And one of the elite, if you like amongst them, when he reported to them the truth about the weapons hunt, Dr. G handed over to me, his letter, his original documents and the contemporaneous emails he sent at the time about how his report was buried along with details of his meeting, with downer, with the head of Ona and with our

Baghdad ambassador. When I wrote the story and it appeared in the Sydney morning, Herald in slight a slight variation on the whistleblower theme down decided it was a bit too difficult for him to attack Dr.

Marian Wilkinson ([00:35:40](#)):

G because of his reputation. So he took the easier and more familiar course to hear me slamming me the Herald and denying that he had ever attempted to bury Dr. Jew's report. If that was the case, I said to him in the hastily called press conference after would he please release to me all the department documents on Dr. Jew's report his meetings with Dr. G and what he did about them afterwards or so far, I'm still waiting to see those documents. They haven't emerged the morning after the story ran, I received some quite sobering calls for fall from former foreign affairs officials. They said bluntly. They believed it was the first time in a very long time that anyone from inside the department of foreign affairs had broken the culture of compliance that narrowly hangs over the officials dealing with our foreign foreign policy.

Marian Wilkinson ([00:36:40](#)):

And they asked me why I thought Dr. G had finally come forward because he is dying. I replied the truth was that John had been diagnosed with an inoperable brain tumor. And has he told me at the time it was about time. The truth was finally spoken at his funeral in Canberra tributes poured in for John G and his pivotal role in arms control as one of his senior colleagues, put it today, almost one third of the world's chemical weapons and two-thirds of its production capacity have been destroyed. Much of the credit for these truly historic accomplishments should go to John few can claim such a legacy, and this legacy will remain as a tribute to John's life. For me, however, John G's legacy will also be that of a public servant who believed in the end that the truth will out. And I thank him for it.

Speaker 2 ([00:37:53](#)):

[Inaudible] I story told in measured language to your attentive silence. And now,

Paul Chadwick ([00:38:02](#)):

You know, why I called Marian Wilkinson one of Australia's finest journalists. Our final speaker is Julian Morrow. Now there are biographical notes in the program on page 27, and it's much more fun for you to read them yourselves. All I wish to do to introduce Julian is say, of course, that you will know him from the ABC program Chase's, but also the Julian practice law for some time. And in that period of legal practice dealt with some of the legal issues that surround protection of whistleblowers, please welcome Julian. [inaudible]

Speaker 2 ([00:38:55](#)):

Thanks a poll.

Julian Morrow ([00:38:59](#)):

You'll probably all doing what I'm doing and wondering why I'm here. I have to say I do feel an affinity with everyone else on the stage today, because I think we've all got one thing in common, which is not knowing why the chaser is at a festival of ideas. Until just seconds ago, I assumed my presence on this panel was the result of an administrative error that would be corrected. But it is a great pleasure to be here. Since I'm working with the ABC at the moment, I do have to be balanced soils have to say, it's not a great pleasure to be here as well. Of course cause I'm from the ABC. Yeah. The balance is just a Shirad

and I will, in fact later it's not been announcing my candidacy for an ALP seat. I also thought that it might be good to actually blow the whistle at, at an event like this on a matter of national security. So I'm going to do that. There is someone in this room who is a foreigner who comes from another country and is a doctor now by the standards of the Australian media at the moment, he is clearly a terrorist

Speaker 2 ([00:40:19](#)):

And it

Julian Morrow ([00:40:19](#)):

Would not surprise me if Norman Swan booked a one-way ticket to Adelaide. Yeah. However I thought I'd do two, two things today. Firstly just talk about some of the experiences I had while I was practicing as a lawyer which I, I think convinced me and probably most of my clients that I should move out of law. And then I thought I'd talk a little bit about satire and what connection, if any, it has to whistleblowing. I worked as an employment lawyer working in employment and I R and initially I worked for a big corporate firm, which is a good place to kind of get training, but I didn't really like the clientele too much. I was essentially acting for people who sacked people which I didn't really enjoy. So I moved to a firm that act for unions individuals and it was a pretty challenging experience moving to a, you know, the context where you didn't have many resources and where often you, you were representing people who were taking on large corporations or, you know, people who just had more power and money than, than they did.

Julian Morrow ([00:41:33](#)):

And the very first client I had on my first day, it was this guy who came in with a couple of very neatly tabulated folders of material alleging a conspiracy that stretched to the very highest levels of government which he had uncovered. And and I thought, well, here we go. This is going to be a good job. Isn't it? So I started taking down notes, furiously, and I spoke to the guy for you know, I'd probably about an hour and slowly it emerged that he was just mad as a Hatter, absolutely bonkers. Although I was thinking about this before the conspiracy, he was alleging there's a a conspiracy of homosexuals and pedophiles that was running the new south Wales government. And when Milton or cupolas was rested for on allegations of pedophilia and child abuse, I thought, geez, I might have done that. Let that client down.

Speaker 2 ([00:42:30](#)):

But

Julian Morrow ([00:42:31](#)):

It was, it was interesting because as a very young kind of serious lawyer, I thought, God, this could be big. How do I handle this, these allegations? I don't really know how, how to deal with this. And I went to my my boss who was a very experienced employment lawyer, and he's now at the bench. And I kind of very seriously said, well, this man's made these allegations and he has some very nicely tabulated folders. And they always have very nicely tabulated folders than others. And and, and he just said, man, he sounds like a mad man. I don't know why you're talking to him. And, and it was interesting because well it gave me a sense that there were some people who alleged conspiracies who were just crazy that there's no substance to the allegations that they make.

Julian Morrow ([00:43:19](#)):

And I had another client a while later who made who wanted some help. He'd been through the FOI ringer. He'd just been, you know, making freedom of information applications for years and years and years. And you often come across kind of serial litigants people who just seemed to spend their whole life in the courts. And sometimes, you know, you, you having learned the experiences of that, that first client I referred to. You gently put the pen down after a few minutes and think, right. Okay, well, I'll be polite about this, but I'll, I'll get away from it. And there's not, there's not going to be any substance in it. This guy told me a story that lasted about 45 minutes. And again, I was just being polite kind of listening to it. He had made allegations that he'd been seriously discriminated against as a result of false information which he had been trying to uncover.

Julian Morrow ([00:44:14](#)):

And he'd spent the best part of about seven years. I mean, Norman talked about how long legal proceedings talk and he'd spent a long time trying to uncover this what he felt was unjust discrimination. And I thought he was crazy and that he just ruined his life by pursuing this thing that probably he shouldn't have pursued, even if it was true, cause it, it destroyed his life. It destroyed his marriage, but eventually after about seven years and after about 45 minutes of describing his story, to me, he found a genuine smoking gun, a document that absolutely proved that's something that he had felt must've happened and had caused him to lose a job had in fact happened and it's taken him seven years. It had ruined his life, but he had found it. And I thought that was really instructive because you know, it's, it's very hard sometimes to distinguish between the people who, who, who, who making allegations that have no substance of the bizarre conspiracy theories and the people who arrived.

Julian Morrow ([00:45:18](#)):

And it's very difficult to particularly when you don't have the smoking gun in front of you, when you, when you feel you might need to try and find that smoking gun or the gun is not going to be, as it's not going to be as clear as a smoking gun to make that distinction. So to try it, to trust your judgment about whether there's something in a story, whether it's a legal story or, or a journalistic story. And one of the problems with that is that oftentimes and I mean, I don't have much, much direct experience with, with whistleblowers the people who do it and never angels or what, except perhaps perhaps with the exception of the person Marion spoke about just now, but in often that they are complicated people with skeletons in their closets and, and different motivations and all those sorts of things, which make it really difficult to distinguish between a substantive allegation that, you know, that has merit and somebody who, who who's running a different sort of agenda.

Julian Morrow ([00:46:17](#)):

I only had one experience with the whistleblowing legislation per se, which was an allegation about corrupt use of a computer in parliament. And I was trying to my client wanted to make a disclosure and felt they had an obligation to make a disclosure and wanted the protection of the whistleblower's legislation. My view at the time was that the, the, the legislation reads really nicely and, and provides all sorts of protections, but often legislation is not as good at providing actual protections in real life then than it might suggest on reading. And so I was concerned that this person, you know, it's like no one was saying, so you kind of feel like saying, well, you've got to know what you're going at, what you're doing here. This is a big decision for you to make it could change your life.

Julian Morrow ([00:47:05](#)):

And I can cite you chapter and verse on these these legal provisions, which say that no one can take any adverse action against you or, or remove benefit from you and your employment or anything like that. And that's all very nice, but I think it'll probably happen anyway, if you do it. So just be ready for that. And, and what was interesting was that we took so many precautions in trying to protect this person before they made their disclosure and negotiations with the people who we were going to make the disclosure to before it happened and all this sort of stuff. But in fact, in the meantime, the whole story was revealed by some other Y and the person was caught and they didn't have to make a disclosure. So it was, it was interesting experience and it experience, which I think kind of identified that you know, you've, you've got to think of these issues from all angles and you can't just rely on, on legal protections.

Julian Morrow ([00:47:58](#)):

And I suppose if there's a summary of what I learned from, from that I suppose I'd say that my experience was that the legal system can work and it can, you know produce more fair results than when otherwise happened. But it's a very imperfect and blunt instrument that is influenced by you know, money a lot of the time. So you've got to be careful about whether you're using law when you use law as your institution similarly the media. I mean, you, you roll the dice when you go to the media and you'd take your story public. And some people will come out of that victorious and others will be horribly burned by it. And we'll wonder why they ever did it. So the, the options available to you as a whistleblower whistleblower are pretty imperfect.

Julian Morrow ([00:48:46](#)):

And the most that you can do, I think is make the best informed guests that you can about what the best strategy to reveal or to tell the story that you want to tell is, and ultimately you have to rely on the judgment and integrity of people like my fellow panelists, who you've just got to hope that you'll find the right person who is going to be, be good at telling your story and going to help you find you know, evidence and answers that might assist you know backing up the allegations or claims that you might want to make. So I don't, that's not particularly optimistic. But that's what I I thought I'd just speak briefly about satire and whistleblowing. Cause I kind of assumed that somebody thought that there might be some sort of connection.

Julian Morrow ([00:49:36](#)):

I'm not sure that they're right, but and this is probably confusing whistleblowing for blowing your own trumpet. So I apologize for that. Yeah. In advance. I just wanted to make a few quick points. Firstly it's probably the tag satirists that gets us invited to gigs like this talking about ideas. But a lot of the time what we do, isn't satire, it's just comedy. And I'm, I'm really comfortable with that. Cause I enjoy jokes as well as you know, political commentary and comedy about topical events, which is more serious. I think there's a few significant distinctions between and whistleblowing. And by the way, one of the short hands we have as a definition for satire in the chasers were saying, well, set time is, that's not actually funny. Whereas the jugs just really funny a couple of things about Satta one it's it's destructive, not constructive.

Julian Morrow ([00:50:40](#)):

I mean, ultimately it's, it's aimed at pulling down people and institutions in, in authority. And it's a much harder thing to be a whistleblower. When often you are trying to bring someone or some institution down, but you, you have a much, you know, you have a purpose of improving the way things operate in, in the real world. So to the extent that satire does that, it does it pretty indirectly. And, and another

thing about satire and comedy is that you know, whistleblowers, I think often are trying to want to be progressive, but you know, they really, really believe in ideas of fairness and justice in it. And it appalls them that, that the world isn't just an, and they're willing to kind of run huge risks and, and, and possibly destroy their own lives because they just can't shake the idea that the things should be better than they are comedy.

Julian Morrow ([00:51:32](#)):

Sometimes doesn't have to do that at all. It can just be an Arctic. It can just go, well, we just want to throw, throw the cat amongst the pigeons and see what happens. And I, I really quite enjoy that. But it's, it's a less it's a less kind of noble insignificant thing to do than to Ben to blow the whistle in a substantive way. Set, I thought, of course, you know, notionally has the the purpose that, which is the same as the whistleblower of, of, you know, bringing down the powerful and on that note, I suppose, I'd just say that if you look at the history of the chaser, we started in 1999. And since we formed, we have returned to conservative. Yeah. Each time with an increased majority. And I don't know if anyone's seen Stephen Colbert has addressed to the white house correspondence dinner.

Julian Morrow ([00:52:26](#)):

Is anyone saying that Google it watch it? It is one of the best speeches I've ever seen. Stephen Colbert reckons one of the best satirists in the world at the moment. And he had the prize opportunity to get close to power with his setter. He was, if you imagine the seat where I was sitting before he was giving an after dinner speech and George Bush was sitting there and he gave one of the most excoriating, brilliant biting, hilarious destructions of everything that that man stood for in front of him. And it was brilliant. It was amazing watching the audience cause it was an audience of journalists in the white house press. And initially they thought it was really funny. And then after a few minutes I kind of went, oh, this guy, this guy is not stopping. And he lost the whole room and he did it anyway.

Julian Morrow ([00:53:15](#)):

And it was absolutely brilliant. I, I commend it to you. You can find it on Google and, and it's a fine example of satire. I suppose the obvious point is George Bush is still in the white house and, and Stephen is still making his jokes. But to the extent that satire has any influence on these sorts of things, it's, it's slow and indirect. One thing I'll just say a couple of final things. You know, some, sometimes people say some of the stuff we do in the chasers is, you know, it takes courage or is brave. I don't, I don't really believe that, but, but one of the things I think that is very clear about having our own show on TV is that to, to make an allegation in public or to, you know, make a point in public may take bravery.

Julian Morrow ([00:53:58](#)):

But the great advantage that we have is that we have our own show. So we control the means in which those you know, what we want to say is presented and that makes a huge difference. And the whistleblower doesn't have that protection when we've had today, tonight over the last few weeks in the current affair making, you know, having a go at us and that's kind of fine, cause we, we expect to get that, that sort of thing, but it is really strange when you get in the medium milestone room and you're, you know, you've got journalists staking out your house and, and following you down the street and all that sort of stuff we think it's quite fun and we kind of play around with it, but if you're an ordinary person who's not experienced in the media, that's just know kind of, it's a really difficult thing to deal with.

Julian Morrow ([00:54:37](#)):

So one of the things that we've always believed very strongly at the chaser is that you've got to own your own means of communicating to people. That's why we have T while we had the newspaper, while we have our website and the great protection that we have working, doing our own show on the ABC is that we can construct the messages as we put it out. But occasionally I think you can actually reveal something through satire. Even if it's just the suspicions and the cynicism that everyone else has when you can actually, you can say publicly what everyone else thinks. It's not, it doesn't necessarily change things, but hopefully it's a bit of a useful release if nothing else. So I think you know, I I'm I think whistleblowers are complicated. People very important and I'm kind of relieved that I no longer work directly in connection with them. And whenever we get a really good story, we pass it on to serious journalists who can deal with it and I'll just stick to making jokes. So thank you very much.

Speaker 2 ([00:55:44](#)):

[Inaudible]

Speaker 7 ([00:55:45](#)):

Thanks, Julian. I've been asked to, I,

Paul Chadwick ([00:55:51](#)):

Let me be truthful. I'd like to take my jacket off, but I'm wired. It's hot up here. I've been asked to be what they called a participating chair. And my little participation is this I'm often struck in my own journalistic work in the past in some of the work I've done in other fields, by the clashes of trust that one can observe in whistleblowing. And in the context of whistleblowing, let me explain by reference a couple of cases, they seem to me for areas where there may be in whistleblowing, what you could call a clash of trust. The first is the clash of trust between the whistleblower acting in good faith and the institution about which he or she is to blow the whistle. So you will frequently see, and I'm sure the journalist has seen it, the anger of the institution, sometimes of peers in the institution, not those running it who feel that by stepping outside, as Irene says in her definition, by stepping outside to make the disclosure, the person's peers feel that their trust has been breached. That's an interesting observation. It's vividly told in Daniel Ellsberg's memoir of his whistleblowing in relation to the Rand corporation and the Pentagon papers, but you see it elsewhere too. So first category a sense of clash of trust between the whistleblower and the institution about which he or she is blowing a whistle. The second category of clash of trust can arise between the whistleblower and the journalist, the source and the medium through which he or she gets the information out.

Paul Chadwick ([00:57:46](#)):

A really vivid example is what happened to poor old Sarah Tisdal in England working for the ministry of defense. She acted in good faith whistleblowing in good faith. I say that because we must distinguish it from the strategic leak, the mock whistleblower, et cetera, let us be Frank about it. Let's deal with the ones that are acting in good faith and the public interest Tisdal disclosed definitive evidence that the government of the day had lied about the deployment of certain weapons on British soil. And she provided the evidence of that as photocopies to a particular newspaper, instead of taking the elementary precaution of either transcribing the contents of those documents and destroying them because the original of course, you know, lies in the records of the institution, concerned the newspaper, not only retained the photocopies Sarah Tisdal made, but when the special branch investigated handed them over, and the result was that the photocopies could be matched to the

relevant machine. And she was not only revealed as a whistleblower, but charged under the official secrets act and jail.

Paul Chadwick ([00:59:05](#)):

Another and fascinating example of the clash of trust that can arise between the whistleblower and the journalist is Ellsberg's case itself. And I recount it because it's so celebrated Ellsberg wrote about this years later. So don't think of it as some sort account, given an anger on the country. It's a very measured, thoughtful reflection on his working life. The journalist involved was Neil shin of the New York times later to write a fantastic book about the Vietnam war called the 10,000 day war Ellsberg knew Sheehan passingly in Vietnam at the time that Ellsberg was doing work there. And Shannon was a correspondent there and returning to the U S Ellsberg became more and more concerned about the government's carriage of the not only the carriage of the war, but as he tells it, the deception that he felt was being perpetrated. And he resolved to leak a very large study known continuously as the Pentagon papers.

Paul Chadwick ([01:00:06](#)):

In those days, it was quite a torturous task to photocopy it all in secret and make sure the originals were all in where they needed to be. He and his wife did that in and around Cambridge, Massachusetts. They secreted a copy at the apartment of a friend when the time came, Ellsberg asked Shane if he could have a word and went to stay the night at Shane's place and began to talk. And eventually at Dawn had told she and all about the study and how he wished to release it to the New York times. And there began a very interesting negotiation, which the journalist will be familiar with between source and journalists about whether that person will release how much when protections, all sorts of issues have to be dealt with Ellsberg and his wife decided they would let she and read their photocopies in the friend's apartment, but not take it away.

Paul Chadwick ([01:01:09](#)):

And she, and had to carry the negotiation with those who ran the New York times, that this was a disclosure of great significance and that the New York times should be disclosing it. It led to a celebrated us Supreme court decision in the memoir Ellsberg seeds that while he thought he was in negotiation with Shane about whether he would provide a full copy to allow the New York times to tell this story, he learned years later that she and had surreptitiously taken a copy of the key to the friend's apartment. And without Ellsberg's knowledge had returned to Cambridge, Massachusetts one weekend with Shane's wife, interesting commentary here on trust that Ellsberg trusted only his wife with the work necessary for effecting Blake. And she entrusted only his wife with the work necessary to achieving it without the knowledge of the she and, and his wife secretly copied a set and took it back to New York where the New York times rented suites at the Hilton and in secrecy prepared their reports on the Pentagon papers, contents, Ellsberg, the man who was the whistleblower had himself been deceived.

Paul Chadwick ([01:02:36](#)):

Now there will be some, and I'm sure sheen would be one of them. And I don't mean to be understood to be telling this story pejoratively in relation to Shyanne, there's all sorts of details that won't appear in Ellsberg's memoir. But the interesting thing here for me was this question of trust between whistleblower and journalists. So second category of questions of trust. The third category is between the community itself, which the whistleblower has chosen to disclose to in the public interest and the institution about which the disclosure is made. You will frequently see when a serious disclosure is made

about an institution that they go into damage control, very concerned about the effect on the brand. What does the community think about that institution now that it's learned these details via the whistleblower is one part of the clash of trust issue. But the other part is what do the regulators do about the new information that through the journalist the whistleblower has put into the public arena.

Paul Chadwick ([01:03:37](#)):

And it goes back to Julian's point. I think that some of the legislative protections tend always to say that a protected disclosure must go through a particular regulator, be it the ombudsman or some other regulatory structure that rises instantly the question, what is the grounds for the trust that the regulator will act appropriately on that information within the limits of its jurisdiction and the fourth and last category of clashes of trust is I think one that's often neglected in these matters, partly because we become naturally very fixated on what the substance of the disclosure is rather than the broader picture. The fourth category is the relationship of trust between nascent or prospective whistleblowers and the rest of us. Okay. Whenever there is a celebrated whistleblowing case, whenever someone suffers vilification failure by the journalists, perhaps as in the Tisdale case to protect the whistleblower breach of trust, like the one Ellsberg tills, whenever that happens, lots of people who are tossing over in the back of their minds, whether it's time for them to blow the whistle, watch that public play, watch the theater of public affairs play out and quietly decide whether they too will act or whether in their case discretion is the better part of valor.

Paul Chadwick ([01:05:05](#)):

Let's open up to some questions. Can I ask Norman to return to what I asked him to think about? What Judy's do we over the whistleblower who acts in good faith, Norman? Well, I just don't think a one way street,

Norman Swan ([01:05:19](#)):

Some whistleblowers are vexatious. So there's no guarantee that when somebody comes to you with a complaint that's real Julian described the person that's defined the tabulated folder. And and it is hard to make an assessment for a whistleblower to come to someone like Marian or me takes an enormous effort, or I imagine the lawyer they've gone through hell to get there and it takes a certain kind of person to do that. You're a bit obsessional you believe in the right re the rightness of your case. You're almost at that point willing to sacrifice yourself for the greater good that in the more extreme cases and you're psychologically damaged, you're depressed and you're angry. Andrew mistrustful. So you're damaged goods. By the time you become somebody that you might define as a whistleblower and therefore it is hard.

Norman Swan ([01:06:21](#)):

So let's assume Goodwill and the willing will the willingness to do the best in an organization. It's hard to make sense sometimes of those allegations, because again, as Julian said, the whistleblower is sometimes shambolic and doesn't come with a tabulated document and therefore you've got to get through it. So all that makes it really hard, that makes it hard for the journalist. So let's talk about the nascent. This is the most important person, the nascent whistleblower, somebody who knows something's going wrong and wants to change circumstances for the better. There's a, there's a duty, I believe of institution and it's about institutional culture. So we don't, I don't think every jurisdiction in Australia has protected disclosure act. So I don't think we have at a federal level I've had experience

particularly the Bruce Hall case of the new south Wales protected disclosure legislation, which is flawed, but I'm not sure how you'd make it better because you're talking about institutional culture.

Norman Swan ([01:07:23](#)):

So training managers that in fact their organization will be best protected by transparency by being fair. So you have to have systems in place to hear these complaints, assess them while protecting the person they're accusing, but not thinking about the reputation of the institution in any other sense that doing the right thing will protect your institution best because institutions that don't do the right thing do come out damaged in the end and having those systems in place. And in theory, most Australian institutions do have something like that in place. I think government is where it's weakest. But but they don't work often. And and so with this most one, the university of new south Wales in terms of hearing the complaint there was an assumption. These people did not speak good English. They somebody made a judgment that they weren't food scientists when that was irrelevant.

Norman Swan ([01:08:32](#)):

What they came with were lab books where documented experiments, which were said to have been done. We're not done. It was there in black and white and the institution should have responded. And in fact didn't, and they were made under the protected disclosure act and and they were badly served by the organization. So it's organizational culture is one of the things that has to be backed up by legislation. But if you don't change people's attitudes and responsibilities that institution, because in the end, a professor of medicine being accused of something does not condemn the whole of the university, but the response of the university did condemn the whole university. And the peer response here at, in the lab was very much against the whistleblowers. They were very supportive, but the peer response to the broader university was how dare the university demean us all by this bad response. So they felt damaged not by the whistleblower, but by the poor institutional response. Thank you,

Paul Chadwick ([01:09:34](#)):

Marian. Can you say something about how we might encourage the best of whistleblowing?

Marian Wilkinson ([01:09:39](#)):

Well, I think at the moment it's, it's actually getting extremely difficult for whistleblowers. And I think in a way it goes to Norman's point that you almost have to be incredibly obsessive these days to have the courage to go through with it. I think my approach to people has generally been normally it's absolutely right, that you need pretty Frank disclosure these days with what people are going to face, if they do become a whistleblower. I think the Andrew Wilkie case is a classic example where the former Ona guy who's whose reputation and personal life and everything else was pretty much put through the ringer. So I think that's that that's a problem. I think there's another thing going on, especially if it concerns a government official military officer, a police officer is the extraordinary lengths that the government is going to at the moment to suppress leaks, to crack down on whistleblowers and to charge people that I know then you get in between this thing about what's you know, protective legislation and what are the legal obligations?

Marian Wilkinson ([01:11:00](#)):

I think Norman or Julian might correct me on this, but I understand federally that if they come directly to the journalist that isn't the legal protection, they need to go to the ombudsman or whatever. And as we all know apart from the lack of timeliness that it's far easier for the government to control the, you

know, what happens ultimately to their complaints. So it is difficult. I think that apart from giving the warnings to the whistleblowers, it's easier for me being in print than for, for Norman. But I would often advise people first to come up with the supporting evidence, the documents, and actually keep themselves back from personally making the disclosure. And that also you know, by relying on the evidence, it makes it much easier for the print journalist to be able to go and check what's happening and to get enough independent verification, and then subsequently if necessary, the person can come forth. But I often, even though it makes a better story for the person to come out, I don't necessarily encourage that if it's not entirely necessary. So just to explain

Norman Swan ([01:12:31](#)):

Mary's point there is that I need somebody to talk. Yeah. And the four corners need somebody on camera. And if you don't have that, you don't really have a story

Julian Morrow ([01:12:42](#)):

That resonates a lot with when I was working as a lawyer that in the end, it does come down to the evidence and, and often it's the documents or the the actual objective chain, which is going to be the strength or weakness of the story. And one of the things that I used to do advising clients

Norman Swan ([01:12:55](#)):

Was, you know,

Julian Morrow ([01:12:57](#)):

Advising them of the process of preparing and getting, getting those documents. And also you've got to do it in a way that's not gonna get traced. I mean, you can, you know, if you, it's amazing. I was sitting in a Royal commission one day where a, a bogus whistleblower was absolutely destroyed by a computer forensic expert who was able to show when this guy had fabricated the document by by going through the hard drive and identifying when documents, which he thought he'd deleted were in fact you know, it had been accessed and modified. And so the chain that people leave when they're trying to discretely Mount their pile of evidence can, can be very easy to pick through. So, you know, people have to be wise to that from the earliest possible moment guide.

Paul Chadwick ([01:13:46](#)):

You've written your own book, but can I ask you to speculate what were a couple of the steps along the path to deciding, to do that, which had a journalist called you and behaved appropriately at the time might've led you to trust him or her to be the medium through which you told your story?

Guy Pearse ([01:14:05](#)):

That's, that's a good question. I think one of the keys to maybe being able to speak has been that I've come at it from so many different angles. So I said earlier that I wouldn't have, I may not have done this if I'd been a staffer for the whole 10 years, because I wouldn't have really seen past my own rhetoric that I was writing, but I was in a different position there. In that I saw it as a lobbyist and all these other things, but one advantage of that was that it was really only for the first two year period that I was, I guess, bound by the, you know, the crimes act and all the other things that people working in the federal bureaucracy or for members of parliament are subject to. So while there's a section of my story

and stuff that I saw at that time, which did start raising alarm bells, it's only quite a small section that I'm not allowed to really reveal publicly.

Guy Pearse ([01:14:54](#)):

And at the end of the day, it wasn't really a huge part of the story. You know, there was some small alarm bells going off, but things like that, then the first how government resources, minister work para sort of coming out in the media saying climate change is the club of Rome. We don't have to worry about it. It's all bogus. I mean, that was as much of an alarm bell to me as anything else. And it wasn't subject to the crimes act on, I can happily talk about that. But so for me, that's being, having many different angles to come at it from, and not being subject to a lot of the restrictions that the people that they're talking about are subject to has been a big luxury. And, you know I think a, I also don't encourage people to do this lightly. I think I'm in a fairly unique position, but

Norman Swan ([01:15:39](#)):

When you're doing the same sort of thing that Julia was talking about with the chaser by writing your book. Yeah, yeah, exactly.

Guy Pearse ([01:15:46](#)):

Yeah. Yeah. I went on four corners, sister did that earlier, so I've been through that adventurous.

Paul Chadwick ([01:15:55](#)):

Okay. it's now time to invite you for any questions of the panel, there's a microphone there about midway back in the center and one at the top on the right, as we look at it, the left, as you look

Julian Morrow ([01:16:09](#)):

At us, have you journalists got an agreement of who gets the story, if anything, good

Norman Swan ([01:16:11](#)):

Comes out. You get it first,

Paul Chadwick ([01:16:15](#)):

First question here. Thank you. Yeah, thanks very much. Some of

Speaker 8 ([01:16:21](#)):

Our public institutions are regulatory institutions that are designed to whistleblower with it, a statutory framework on behalf of the public interest. I wonder what your views are about. What, how would those institutions conduct themselves selfishly and ethically and more effectively so that perhaps not so many individuals would have to suffer so severely in the interests of all of us. And I asked that question as one of those regulators. Thank you.

Norman Swan ([01:16:59](#)):

Well, yeah, there are several of those types of organizations, the ones that I have the most experience over on the health area. So you have medical boards, you have nursing registration boards, you have healthcare complaints, commissioners, which have different terms in each state. And medical boards

often fail in that re in that function, particularly in the small jurisdictions like south Australia, Western Australia, Western Australia has had an appalling reputation for but where they've missed out is in the S the recurrent theme here is where their true responsibilities lie. So where they come, a Cropper is forgetting that their main role is protecting the public. It's this theme that guy was talking about, you know, you're a political party, you're representing the nation. And if you're a regulator you're regulating for the safety or benefit of the community, and that has to be the prime consideration. And if that's your focus, it should play out. It doesn't always, but it should play out. And but it's, you know, but it's hard.

Marian Wilkinson ([01:18:18](#)):

Yeah. my one comment on that would be my recent experience when I was covering the terrorism round for the national security for the Herald was the inspector general of intelligence that was support. That is the oversight body that looks after AC Oasis, et cetera. And there was a rather celebrated case involving a military officer, Lance Collins, whom the government believed had leaked information, the rather famous trail of emails on the Indonesians in East Timor, the previous inspector general, I think, did a very fluid report on his case. It was in fact later established to be floored by his successor. But one of the reasons for that at the time, as Norman said, the their offers took incredible regard for what the government and the government intelligence agencies were saying. And I think not enough regard to what they do teas, as I'm explaining this and investigating this on behalf of the public was really about. So I think flipping the mentality in a lot of our regulators is just absolutely crucial, but that means standing up to a lot of government pressure. And I know that's hard,

Paul Chadwick ([01:19:46](#)):

I'll say something about it because for the last five years, 2001 to 2006, I was an independent statutory office holder in Victoria. My view of this is as follows. It is a fundamental element of the rule of law that those who are privileged to be given those sorts of responsibilities under law must stay within jurisdiction. And often as Norman was saying, when the end Julian to when the person comes to you, believing you can fix it, you have to sort through what is often a chaotic story the lawyer does with an advisor, but so does the regulator and try to work out whether it's within jurisdiction, if it isn't, you must not act, be on power apart from anything else, your ex will be invalid and liable to be struck down that your duty, it seems to me is to discern not only on behalf of that potential whistleblower, if it is, but the community in general, which bit of our regulatory structure has got the right jurisdiction and refer there and filing that because there's some lacuna, some gap advise the parliament of that. And that's why you are one created independent by usually an ordering council or something of that nature. And to why you are usually given in your statute, the capacity to report annually to the parliament in a privileged environment, it's up to the office holder then to fulfill his or her jurisdiction to the four corners of it, but no further

Speaker 9 ([01:21:26](#)):

Yes, society, the life's work about political leaders. And I suppose the heads of major institutions has been to make themselves plausible to at least 50% plus one of the population and the life's work of the rest of us has been to do something else given that is it just vain the stupidity to think that any of us could successfully tell a truth that mattered, that would seriously discomfort one of our political leaders or heads of our major institutions. And that alternatively, is that, is there ever such a thing as a, a happy, satisfied whistleblower, let's start with Maryanne. Oh,

Marian Wilkinson ([01:22:07](#)):

It's a, it's a very rare thing. I think that, there's a there's the case of that that I have seen the the story of a happy, a whistleblower. I, I know what you're saying, what you're saying is essentially we're such a polarized society that you know, whichever side you're barracking for, you're not necessarily going to believe an expos on one or the other. And I think that it is true that a lot of us do follow politics like that kind of football game. But I do think these disclosures are important. I think there are some disclosures that are terribly important. But I think that I guess what I would do is start from a different proposition and that different proposition is that I fundamentally believe in our society. We keep government keeps far too much information secret.

Marian Wilkinson ([01:23:09](#)):

A lot of these things that we're talking about, they should be open. They should be accessible. I, a few years ago, I had a long discussion with some Scandinavian colleagues from Norway and Sweden. And I was absolutely stunned, their freedom of information laws, their attitude of their government is essentially that all information is open and that they make, they have to make a very serious case if they don't give it to the reporters. Well, David Mara and I had this experience when we were doing the, a story of the Tampa crisis and dark victory. When I went to Norway, it was stunning. I mean, the foreign affairs officials there not only you know, give me interviews, but, you know, when absolutely through step-by-step everything that the foreign affairs department, their foreign affairs department did in the crisis, what they did, what went wrong, what they got wrong, who they spoke to all the sort of confidential dealings between them and the Australian government. And the difference was stunning. And I actually think that we need to start from the other end of this debate, which is to say our pressure should not be funneling this information through, you know, whistleblowers or regulatory agencies, but starting from the proposition that the information is open and that, you know, as a kind of mature society, we should be able to make up our minds a bit about what we think is important or not. And what we think is the truth or not

Speaker 2 ([01:24:52](#)):

[Inaudible].

Guy Pearce ([01:24:53](#)):

Yeah, I was just going to I've been it's early days yet, so I could fall into a deep hole of depression will, will time will tell, but you're a happy whistle. I'm actually quite happy.

Speaker 2 ([01:25:10](#)):

[Inaudible],

Guy Pearce ([01:25:10](#)):

I'm a lot happier than I would have been if I'd towed the line for 20 years and stayed silent and tried to run for pre-selection and hope that I'd get to cabinet. Maybe one day I'd influenced the policy. It's actually quite liberating, you know, not being in that mainstream, but I think my situation's a little different to a lot of people in that I think I vowed in 1993, I never wanted to have a normal job again. So I set off getting consultancies and various other things. So I think that just set up a very unusual career, which put me in a very different position to some of these career public servants that were talking about for him. They have to take it in, make it an enormous sacrifice. They don't have so many options as someone like me, but even, you know, someone like Andrew Wilkie, th they reinvent reinvent

themselves. And he he's on the verge of being elected to the Senate, as I understand it. So now there is life after whistleblower.

Norman Swan ([01:26:01](#)):

The other thing there is, is we've become very tolerant of line. Bare face line happens on both sides of politics, but we just kind of accept that's the way it is. And it kind of suits us to believe it. And whatever, it's almost whatever it takes. It's it was interesting. I was listening to mark texter, who is John Howard's poster, giving a presentation about what, one of the reasons why John Howard is, is so successful as a politician, and it's because he's strong and resolute, or at least seen as such. And not necessarily seen as honest or truthful as a politician, but seen as a resolute and strong. So what happens is, and I think that the, so the cynical approach to the singularity behind that question about to mean two songs it's cynical is that institutions just don't do anything.

Norman Swan ([01:27:00](#)):

Sometimes when you just don't buy in it, they become this slippery, shiny ball where they just don't respond at all. Because if they bite, they know they might open themselves up. So nothing happens or there's just consistent bare face line because they're powerful. They've got their spin doctors, and if they push through, eventually it will be all right, because the other people don't have the resources to pursue it. And and in a sense why we still do some of this stuff is that it is the drip, drip, drip, and some of these things are important. And you've just got to keep balling it up. The problem in the media is it's very expensive for media organizations to have people like Marian and I around. One story can cost, even if it doesn't get a court can cost hundreds of thousands of dollars just in legal fees or in the skirmishing that might be around a court case, which might never eventuate, hundreds of thousands of dollars. It is very expensive. It hits the bottom line. It doesn't sell more newspapers or get more people watching your television station. And therefore the investment invested in journalism is precarious.

Paul Chadwick ([01:28:13](#)):

Last question here. Thank you.

Speaker 8 ([01:28:16](#)):

You, Julian mentioned about legislation that reads really nicely. And I think if anyone wants to see any of that, they should read the south Australian rules of court, which are full of things about alternative dispute resolution and mediation, but lawyers are very free to ignore those. And I can speak from experience when I heard a magistrate say about a lawyer in court. I don't care if he lies all the time attempting to get things like this scrutinized or addressed is very tough. And I think part of what protects that is that the lawyers and judges seem to interpretate interpret their kind of moral code, which is not to bring the profession into disrepute rather than not doing disreputable ex they closed ranks and don't let anyone investigate or cast light on the disreputable acts. And how can that quirk of interpretation be addressed so that it does become transparent and it does serve the community fairly

Julian Morrow ([01:29:34](#)):

Sure. I'll try and think of a I believe one Lana to, to avoid that. Look, I mean, I think what Norman said before was exactly right. I mean, in the end you need good institutions and that, and that, and, and you need to shape things as best you can in legislation. And you need to also constantly renew. You need to assume that, you know, a, a structure which addresses a particular problem might over time, you know, laps get a little bit apathetic and not be as sharp as as it once was. And you need a culture of a culture of

truth, a culture of people supporting those who are brave enough to confront things. And, and, and, and my experience in law was that, you know, lawyers get a pretty bad rap all the time. But there are actually lots of really good people doing really good work a minority perhaps and you just, people who are committed to taking on the cases are hopelessly uneconomic cases of people who have been wronged. And so I suppose the most that you can hope for is that there'll be that through education and, and the media that we encourage more people to do that. And it's going to be clumsy and imperfect and need renewal. But you've just got to commit to it and, and, and, you know, have, have the faith that it's worth pursuing the truth and things that are right. Thanks to

Speaker 2 ([01:31:14](#)):

[Inaudible].

Paul Chadwick ([01:31:14](#)):

I think it's not fair to ask people questions without attempting an answer yourself. And I asked our panel in advance by email those questions I put to them, one of them directly to Norman, just listening today again, and being reminded of some of the cases to do with spectacular whistleblowing reminds me of a few things. One, it is essential that we recognize the legitimacy of whistleblowing in a democratic community. It's a safety valve, too. It's important to distinguish it from spin and the, the pretense of whistleblowing when it's really an organized leak, et cetera, and three women stacked on the disclosures, not the discloser for journalists, give warning to the potential whistleblower, because there are terrific potential impacts on his or her life for the rest of us. When someone is brave enough to do it, protect them in the first instance. And as the facts play out, give honor, where honor is due. I must remind you all to leave, even if you're coming back for Julian's next session, and please thank the panel. [inaudible].