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Human Sources: The Journalist and the Whistle-blower in the Digital Era

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INTRODUCTION

Imagine you're sitting in an empty bar and you strike up a conversation with another customer. He's clearly very unhappy. You tell him you're a journalist. Pretty soon he begins unloading to you about the unethical things happening at his work. The next thing you know he's handing you a USB stick with 251 000 US State Department cables on it.

Of course that's not how it *really* happens. In real life, random barflies rarely provide closely guarded government secrets to strangers. Most reporters don't *really* go creeping around darkened car parks waiting for Deep Throat to show up, as in *All the President's Men*. As one national security reporter¹ suggests: 'It happens in Hollywood a lot more than in real life frankly.'

Yet, there is no underestimating the value of human sources. HUMINT ('human intelligence') has long been recognised as one of the core roles of an effective spy organisation. The information-gathering role of an investigative journalist is similar. Most investigative journalists depend on human sources: for leads, to verify a story, or both. These sources may be anonymous, confidential, or their identities may be publicly identified. In recent years, technology-led web publishers, such as *WikiLeaks*, have pioneered new ways to protect anonymity and confidentiality, although technology can also make it easier to link journalists and their sources.

This chapter provides an in-depth look into one of the reporter's most important human sources—the whistle-blower. 'Whistle-blowing' occurs when a member of an organisation discloses 'illegal, immoral or illegitimate practices (including omissions) under the control of their employers, to persons or organisations who may be able to effect action' (Near & Miceli 1985). The authors suggest expanding this definition further: whistle-blowing is the act of revealing inside information about serious

wrongdoing to people or authorities who may be able to take action about that wrongdoing. Wrongdoing is when a person or organisation does things that are unlawful, unjust, dangerous or dishonest.

Public interest whistle-blowing is conventionally understood to identify wrongdoing that affects more than the private or personal interests of the whistle-blower (Brown et al. 2008, p. 8). It also *commonly* requires an element of seriousness—sufficient to cause actual harm to the interests of individuals, the organisation or wider society—rather than just ‘technical’ breaches of rules or procedures.² These definitions are important, for they dovetail with the public interest element of journalism in bringing to light important information that exposes wrongdoing.

This chapter addresses three questions:

- 1 What motivates whistle-blowers to come to the media?
- 2 What do these sources want when choosing a journalist they can blow the whistle to? and
- 3 How can journalists help protect whistle-blowers and other human sources?

The chapter highlights high-profile news stories in which whistle-blowers played a key role and suggests some key elements common to many whistle-blowers. It also includes analysis of an international qualitative research study conducted from 2010 to 2012 by the authors of this chapter.

TYPES OF HUMAN SOURCES

Leaks are the journalist’s lifeblood. According to Flynn and others, leakers ‘disclose unauthorised information to the press that has not been processed by official channels’ (Flynn 2006; Bok 1982; Ericson et al. 1989; Sigal 1973; Thompson 1995; Tiffen 1989). Increasingly, whistle-blowers are working through ‘citizen journalists’—online bloggers, Twitter and Facebook—users and others who write (sometimes quite expertly) on a topic, but who may not be employed for money by a media organisation.

There are different types of leakers with varying motivations, including the whistle-blower (who intends that the wrongdoing be stopped). Other leakers may have unrelated intentions—such as tactical political gain, or embarrassment. According to veteran Australian political journalist Laurie Oakes, ‘leakers, whatever their motivation, serve the public interest’ simply because of their importance to free journalism: ‘being first with important news is, in essence, what being a reporter is all about’ (2010, p. 296). However, whistle-blowers are both particularly valuable in identifying newsworthy issues, and less likely than other more ‘tactical’ leakers to protect themselves against retaliation or other consequences of their actions.

Only a limited proportion of whistle-blowing involves the media. Workplace fraud, for example, is generally reported through internal channels or to a manager. There is also a range of external channels, including the police or an anti-corruption agency. If a potential whistle-blower thinks these institutions are part of the fraud, however, they may well turn to an MP or to an NGO such as a help group. Whistle-blowers frequently only turn to the media as a last resort, if they feel there is nowhere else to go; or because they have suffered reprisals, and have nothing left to lose (Callahan & Dworkin 1994; Donkin et al. 2008; Smith & Brown 2008). As one of the whistle-blowers interviewed for this study described it: ‘What the whistle-blower has been forced into ... with the media is looking for a way to short-circuit those entrenched power systems ... and achieve what are publicly acceptable legal or moral outcomes.’ In such circumstances, the whistle-blower turns to the journalist.

Some of the biggest news stories come from whistle-blowers. These stories often serve the public interest by revealing safety failures or wrongdoing in a way that protects society. An example of this is the ‘Dr Death’ case from Queensland. In 2005, intensive care nurse unit manager Toni Hoffman revealed wrongdoing by surgeon Jayant M. Patel in a scandal that rocked the Queensland Government, led to a major commission of inquiry, and made international news (ABC 2005; AAP 2005; Davies 2005; CNN 2010). Dubbed ‘Dr Death’ by the media, Patel was eventually linked to 80 deaths at Bundaberg Base Hospital (Mancuso 2005). It was only when Hoffman’s concerns became public that a full picture emerged (Thomas 2007). In 2010, the Queensland Supreme Court sentenced Patel to seven years prison

in one of the longest running Supreme Court criminal trials in the state (ABC/AAP 2010), although the High Court in August 2012 ordered a retrial that was still to be heard at the time this book was published.

At times, whistle-blowers reveal their own wrongdoing as well as that of their peers or superiors. One of the most famous examples of this is the ‘My Lai Massacre’ story from the Vietnam War era. In 1969, at the height of the Vietnam War, investigative journalist Seymour Hersch sat in an Indiana farmhouse listening to young US soldier Paul Meadlo (Hersch 1977). Meadlo was revealing wrongdoing—by himself, his superior and fellow soldiers—in circumstances so awful that they would eventually contribute to the end of the Vietnam War. The news story became known as the ‘My Lai Massacre’, after the name of the village where US soldiers went on a killing spree, murdering more than 100 women, children and old men in cold blood. Meadlo’s mother told Hersch: ‘I gave them a good boy, and they made him a murderer’ (Hersch 1977, p. 296).

Meadlo told Hersch how the soldiers had ‘chopped in ... expecting it to be hot; filled with the enemy. Nobody was there’. Army Second Lieutenant William Calley ordered Meadlo to begin shooting villagers. At first Meadlo refused, but after Calley began shooting, Meadlo joined in. ‘Meadlo told Hersch, “Calley told me to push them in a ditch, and he named two or three other guys, and then we just shot them in the ditch”’ (Hersch 1977, p. 296). Eventually Calley was convicted of war crimes for his role (*Los Angeles Times* 2009).

Meadlo was whistle-blowing. Hersch wrote: ‘Meadlo wanted to do it ... In his case, expiation was very important’ (Hersch 1977, p. 296). This case highlights the complex motivations that bring whistle-blowers to talk to journalists, even when it may not be in their own best interest to do so.

PORTRAIT OF A WHISTLE-BLOWER

Who are whistle-blowers? What motivates them to talk to journalists? What do they want from the journalist? The authors sought answers to these questions by studying whistle-blowers and the investigative journalists who work with them.

Using whistle-blower motivation as an initial unit of analysis, the authors first conducted five pre-interviews with investigative journalists and whistle-blowers. The authors used the data from these and from an extensive literature search to draw up more structured questions for Phase 2 of the data gathering. This involved 24 in-depth interviews with five ‘high-impact’ whistle-blowers and 19 journalists from news organisations covering 11 countries (Australia, the UK, Iceland, Russia, Germany, Bulgaria, Kyrgyzstan, Kazakhstan, Uzbekistan, Tajikistan and Turkmenistan).

The whistle-blowers’ stories were labelled ‘high impact’ if they had been covered by one or more major media outlets, including metropolitan daily newspapers or national broadcasters. In some cases the whistle-blowers were anonymous in those stories; in others their identities were known. Most of the reporters interviewed had an investigative journalism background. All forms of media were represented, including newspapers, television, radio and online media. Note that all participants in this study have been anonymised, and are referred to as ‘he’ regardless of their gender.

The rationale behind supplementing the whistle-blowers’ stories with those of investigative reporters was because it was not possible to find and gain access to large numbers of high-impact whistle-blowers. The reporters had worked on long-term investigative stories, or had made extensive use of sources or leaks in high-risk or high-impact situations. To ensure the data we collected was valid, the authors tested the journalists’ interview data against the data from the interviews with the whistle-blowers themselves for consistency. The authors also wanted to include a wide age range of journalists in order to capture data on the impact of digital technologies. All the interviews were transcribed and then coded using Atlas.ti, a qualitative data analysis software program. The next section describes aspects that motivate whistle-blowers to go to the media.

WHISTLE-BLOWER MOTIVATIONS IN GOING TO THE MEDIA

Whistle-blowers may all be revealing inside information about wrongdoing to the media in the hopes of having that wrongdoing stopped, but their motivations are sometimes quite complex, and frequently there is more than one motivation at work. As part of the data gathering, the authors asked each subject what motivated whistle-blowers. The authors built and expanded the list as the interviews progressed and tested the validity of the motivations in subsequent interviews. The authors also asked subjects to rank the list of motivations from most frequent to least frequent.

Participant A (a journalist) identified three key categories of whistle-blower which were reinforced by subsequent interviewees:

- 1 seeking justice
- 2 seeking some form of personal gain
- 3 were angry or wanted retribution or revenge.

They might all be revealing inside information about wrongdoing to the media in the hopes of having that wrongdoing stopped, but their motivations are quite different. These broad categories were confirmed by other study participants, such as Participant B, an award-winning journalist with more than 20 years' experience:

You've got the ones that simply are driven by ideals, values and conscience. And there's nothing in it for them but heartache. Then you'll get another subset where they are doing the right thing in highlighting what is going on ... but they will get some kind of benefit. Not saying that's a bad thing. And then there is a third sort of subset: they're pissed off and they're going to get back. There's a bit of revenge ...

It doesn't mean you don't do the story. You get every side of it. But the ones I like dealing with are the first [category].

There were additional motivations identified by participants, but these were effectively subsets of the earlier categories (see Table 4.1).

TABLE 4.1: THE PALETTE OF WHISTLE-BLOWER MOTIVATIONS

	MOTIVATION	HOW COMMON?
1	Justice seekers/altruism/moral outrage—the genuine desire to correct or stop something that is wrong or unjust, regardless of whether this benefits or costs them personally	The most common motivation identified, with almost all listing it
2	Retribution—getting back at a person or organisation perceived to have injured the whistle-blower or friends/allies	The second most common motivation listed
3	Patriotism	Less common
5	Fame or acknowledgment	Less common
6	Power/manoeuvring within an organisation/politics/leverage	Less common
7	Information trading	Less common
8	Stirrers/people who want to 'stir things up'	Less common
9	Personal or financial gain	Less common

Often the motivations would blend or merge together. This is why we refer to them as a 'palette'. However, two stood out: justice seekers/altruism/moral outrage and retribution.

By the former, the authors mean the genuine desire to correct or stop something that is unjust or wrong, regardless of whether this personally benefited the whistle-blower. Participants also sometimes called it 'public spirit'. Almost all study participants listed this, and many listed it as the most frequent motivation. Participant C (a journalist) described it as follows:

It is altruistic. It's also sort of reforming in their minds. It's doing it for a reason, which they believe will change something ... a foreign intervention or a change in policy by somebody or it will create something. It's not just for the sake of the information getting out there. They want to effect a change.

Some participants (all of whom were journalists) doubted that this motivation occurred as frequently as the public believed, and a few doubted that it existed on its own. They viewed it as always being combined with other motives.

Retribution was also commonly listed by the investigative journalists in the study, but not by the whistle-blowers. Some journalists did not believe this was a motivation by 'true whistle-blowers', but rather by some other sort of leaker. In most cases where retribution was listed as a major motivation, the journalists making the observation had spent much of their careers focusing on major crime, particularly organised crime.

Among the whistle-blowers, retribution did not loom large, except possibly after they tried to blow the whistle and were badly treated. This was the case with Participant D, whose whistle-blowing involved the revelation of activities that led to the deaths of children. As a result of the mistreatment he received after blowing the whistle on the activity, he was now motivated by retribution: 'I don't want revenge from the original thing,' he said. 'I want revenge from the reprisal.'

Other, less frequent motivations included patriotism, fame-seeking, power and information trading (described by one journalist as 'horse trading'). This cluster of motivations was much less frequent, with 'horse trading' tending to be most prevalent around political reporting. Note that the desire for power in exchange for whistle-blowing information is not always selfish in the sense of empire building. In corrupt or violent societies, it is sometimes simply self-preservation as a direct result of the first whistle-blowing act. This was described by Participant E (a journalist):

[The whistle-blower] was reliably informed that they [the people he blew the whistle on] were going to try and assassinate him ... He suddenly really, really wanted to talk to us personally, right, because what he was doing was trying to gain leverage. [Something] like 'look, if I die in a car 'accident' or something, the world is going to know who did this' kind of thing. So that is kind of horse trading in a sense.

The 'fame' motivation is also sometimes used by whistle-blowers to protect themselves. However, participants more often confirmed the fame motivation as an after-benefit rather than a primary motivation. Where it was identified as a motivation, the 'fame' tended to be more of an acknowledgment of the whistle-blower's existence than the desire to see their name in lights. Participant F (a journalist) described an example of this:

I had one just recently where a person sent in some anonymous information that turned out to be absolutely fantastic. It was typed up and it had 'If you want more of this information please put a smiley face on the front page.'

Well, we didn't. Then the person contacted us after a couple of weeks ... then rang—that's when I managed to weasel [it] out of them.

Understanding a whistle-blower's motivations is important for any investigative journalist in determining how much to trust the source, and ultimately the information. Whistle-blowers sometimes say that all they have is their integrity. Similarly, all journalists have is their credibility. Destroying

credibility can remove pesky investigative journalists who reveal unpleasant truths. False human intelligence provides an excellent way to do that. The stereotype of the greying journalist full of bitter cynicism has some basis in fact, in part because most working journalists have faced the problem of being duped by false information. Participant G (a journalist) noted:

People always present as having some noble motive that they wish to improve the system. And I don't normally take them at their word. I think quite carefully about what their other motives might be—underlying motives might be—because I need to know. The first thing I need to know about a source is what their motive is so I can evaluate the veracity of what is going on.

Participant H (a journalist), who worked in a non-Western country, was concerned at having misinformation deliberately 'planted' on him as a way of discrediting him. This concern was repeated by other journalist-participants, particularly those who worked in countries where the rule of law had failed or who had broken particularly high-profile stories of wrongdoing by powerful individuals.

A COMPLEX RELATIONSHIP

The relationship between the journalist and the whistle-blower is complex. While journalists may have to protect themselves against the whistle-blower providing inaccurate information, they may also end up having to defend the whistle-blower.

All the whistle-blower participants and some of the journalists observed that the first thing an organisation does when the news story breaks is attempt to discredit the whistle-blower. Participant K (a whistle-blower who now supports other whistle-blowers in public service roles) described this as a 'textbook' approach: 'It's always very quick, the retaliation, when anyone speaks up ... the attack on the person occurs to put the focus on that person and take away from what the whistle-blower is actually speaking about.'

In attacking the whistle-blower, however, the organisation may also turn against the journalist, with their reputation also becoming a casualty. Many journalist participants discussing this sub-topic were adamant about the need for documentary evidence—not just for secondary confirmation of a story, but also as a possible defence against this problem in high-impact whistle-blower story transactions. For Participant G (a journalist), providing documents is the definition of a 'valuable whistle-blower'.

While it is possible for documents to be faked, participants generally agreed that documents lend a degree of legitimacy to whistle-blowers' statements that is much harder to undermine. It's interesting to note that whistle-blower participants say they always suggest getting documents as proof of the wrongdoing before taking the big step of going to the media.

The journalist's request for documentary evidence is important for another reason: the whistle-blower is in most cases completely unprepared for the maelstrom on the horizon and may not even have thought about it. Participant K (a whistle-blower) observed:

There's a bit of autism in a lot of whistle-blowers I've noticed. People that are on the autism spectrum don't have the social cues. They don't care about what other people think and they have a very strong sense of right and wrong—very black and white. So when they see corruption they go: 'Hey, the rule is: report corruption ... This is wrong. I'm going to report corruption.'

There's no benefit. It's actually a detriment. Whistle-blowers ... get crushed. Their careers are ruined; they end up in dead corridors. They actually lose more—not just their family and friends—their work colleagues, their jobs ... The organisation doesn't want you and it's only a matter of time before the work environment is unsafe; you're not wanted ... your mental health deteriorates. It's like throwing yourself on the sword; it's not a positive, good thing. A person that had high social skills ... they're not going to do it. The cost is too high.

A lot of whistle-blowers don't even realise they're blowing the whistle ... They're going: 'Hey, I just wanted to point out that something's wrong over here.'

Participant K has special knowledge of autism spectrum disorders, as well as providing support over years to people considering blowing the whistle. Thus the observations made in this area take on a special significance.

Participants of both types repeatedly stated that whistle-blowing to the media was not in the whistle-blower's best interest. Participant G (a journalist) said:

I would mostly advise whistle-blowers not to do it if I was considering their interests rather than mine, because I would say mostly the whistle-blowers I come across ... the consequences for them are not great.

I don't say I exploit ... but I do use what these people have to say as much as I can in order to make things public that I would like to make public.

On this topic, the journalists and whistle-blowers were in strong agreement.

WHAT IS IMPORTANT TO THE WHISTLE-BLOWER IN DEALING WITH A JOURNALIST

The whistle-blowers and journalists had a very similar list of what was commonly important to the whistle-blower who came to the media (as distinct from the things that motivated the whistle-blower to speak up in the first place):

TABLE 4.2: CHARACTERISTICS OF THE MEDIA OUTLET VALUED BY WHISTLE-BLOWERS

MEDIA CHARACTERISTIC	DESCRIPTION
Change agent	Media exposure through given outlet likely to cause change and fix the injustice
Anonymity	Outlet able to keep the whistle-blower's identity secret from all except possibly the journalist (although sometimes even from the journalist too)
Story treatment	How the journalist would treat the story (sympathetically, with a fair eye, etc.)
Reputation	Reputation of the journalist and the publication
Previous related stories	Whether the journalist or outlet had run related stories before
Media outlet's audience	The reach and make-up of the media outlet's audience (big, small but influential, international or not)
Treatment after the story runs	How the journalist treats the whistle-blower after the story runs

The first two items—change agent and anonymity—were the most important on the list for both journalists and whistle-blowers. Surprisingly, a number of whistle-blowers put change before anonymity, despite the risks to themselves. As one observed, many whistle-blowers are taking big risks talking to a journalist in order to win change. So they would not sacrifice that primary desire even at the cost of their identities being exposed. This preference provides evidence for the altruistic motivation identified earlier.

Sometimes the whistle-blower wants to hide their identity from the reporter as well as the rest of the world. This is true anonymity. Confidentiality is when the identity of the source is kept secret from all but a few, such as the journalist and their editor. The desire for full anonymity drew a mixed response

from study participants. Some journalists wouldn't accept it, such as Participant G, who often covers crime cases: 'they love sending you anonymous emails. You see that all the time, sometimes done with a Hotmail address ... under a fake name. So I'm not going to deal with you on this basis ... I have to know who you are.'

Other participants, however, were willing to build a long-term relationship of trust with a person they could not identify. Participant F, a multi-award-winning seasoned journalist, said:

I've been having a dialogue for years with someone called AlphaBear.³ I don't know who AlphaBear is, but AlphaBear is very connected to the mafia and gives me terrific information.

Look, once you establish the veracity of some of the information, I don't care if they don't want to reveal who they are ... As long as you can establish what they're telling you is accurate, they want to be anonymous, that is fine.

While anonymity can protect whistle-blowers, the reverse can also be true. Some deliberately make themselves very public for protection, believing it is more difficult for tough-minded organisations or individuals to use dirty tricks on someone who is very much in the public eye. Participant K (a whistle-blower) in a Western country said:

I was offered to go into a [safe] house. There'd been about nine people that died in these [safe] houses ...

I could run and change my name, but I couldn't hide. These guys were going to kill me.

[So I] hit the media... And I made it very clear out there that I had documents put with different people, and if I died, they were coming out. I had dirt on everyone. And I think everyone was going, 'Oh, shit, what has he got?' That's the only thing that kept me alive.

This approach seems to apply less to things such as losing a job or reputation, and more in cases where personal safety is at risk.

The reputation of the journalist's publication repeatedly appeared in the interview transcripts as a key 'buying criteria' for whistle-blowers. Participant F (a journalist) said: 'having the weight of a major media organisation behind you really impacts on the whistle-blowers'.

Perhaps even more importantly, the whistle-blowers were strategic about the journalist they targeted, in some cases testing journalists by feeding them a titbit of information and seeing how they handled it. This test was mentioned in two contexts: trust about keeping something secret when asked to, and trust that the journalist could make good stories out of it.

For some whistle-blowers, also important was the ability of the journalist to see beyond the story being spun by the powerful in society—often called 'the narrative'—and to present an alternative. In *Political Fictions*, author and journalist Joan Didion defines 'the narrative' as being 'made up of tacit agreements, small and large, to overlook the observable in the interests of obtaining a dramatic story line' (Didion 2001, p. 37). This definition could be expanded to include obtaining an illegal, immoral or illegitimate outcome, as described by Participant J (a journalist):

It's an ability to see through the narrative ... The narrative is ... 'We're good, they're terrorists' ... That's their narrative and they're sticking to it.

'If you tell a lie, tell a big one and keep telling it'—that's what they do. And the media has no endurance beyond the seven-day media cycle, if they last seven days. Mostly its just 24 hours. So the government just has to stick to the narrative and keep telling the lies. [Sometimes] you get a long narrative, like the one with the Vietnam War or the one we see now with the war in Afghanistan. You've got this ... phoney war on terror which has impinged on civil liberties ...

This same view about the false story, the made-up tidy tale, was repeated in different words over and over again by whistle-blowers.

Not all whistle-blowers carefully target a particular journalist, however, with the study identifying at least two distinct groups. One group turns to the media after trying all other avenues, and they are often already public or semi-public. A second group appears to turn to the media either first or very

early on, usually because they have realised that the wrongdoing comes from the very highest levels of their organisation, and therefore reporting via accepted channels is hopeless. This second group appears highly deliberate in identifying the journalist they approach.

The data suggests that some whistle-blowers have a high degree of sophistication and are subtler than simply choosing a ‘warm’ journalist. They want a journalist who is able to completely disassemble all that is assumed about a reality before reconstructing it from scratch.

Whistle-blowers also consider whether the journalist (or media outlet) has run stories related to their topic. For example, in the pre-interviews, the authors interviewed a journalist who staffed a submission box. When the journalist’s media outlet put out a call for information on a particular topic, people would submit material. However, running a story on the topic would frequently generate a large stream of related information through the submission box, some of it anonymously and some with contact details attached. Interestingly, the journalist noticed that the closer someone seemed to be to the key players in a story topic, the less likely they were to provide original documents.

Whistle-blowers care about the media outlet’s audience. Is it an influential audience, such as politicians and policy makers, that might succeed in effecting change? Or is it far-reaching, such as the nightly news audience, that might protect them?

Similarly, while not a core criterion, whistle-blowers care about how the journalist treats them after the story has run its course. This appeared in the interviews numerous times as something that journalists need to be sensitive to when they move on to the next story.

HOW JOURNALISTS CAN HELP TO PROTECT THEIR SOURCES

The primary protection traditionally offered to whistle-blowers is ‘an undertaking by the journalist that the identity of the source will not be revealed’ (Flynn 2006, p. 258). This is almost always in the journalist’s own interest, because it reserves the source as their exclusive asset. It is also typically presumed to be the best protection a whistle-blower can have. However, the reality of whistle-blower protection is not so simple.

One of the investigative journalists interviewed for this study described how a whistle-blower had gone to great effort to hide his identity when telephoning, including using a voice synthesizer. Unfortunately he called from a phone that revealed its number. It was recognised by her caller ID phone. He was surprised when she asked: ‘So, can I get back to you on this number?’ *WikiLeaks*’ creation of an anonymous online dropbox provided some protection for whistle-blowers from such tracking (Dreyfus et al. 2011). However, despite this improvement, tracking communications in the digital world is generally very easy. A senior investigative journalist observed that he found it much harder to get leaks of any sort these days (whistle-blowing or otherwise). He believed the ease of tracing communications along with the severe penalties for leaking are to blame.

For these reasons, media organisations have been strong supporters of legal protection for whistle-blowers. Legal protection can take many forms, from criminalisation of reprisals, to compensation rights, to freedom from prosecution or civil action for having breached confidences or official secrets. In Australia, the effectiveness of whistle-blower protection has been patchy at best (Brown et al. 2008), while internationally the situation is also highly variable (Calland & Dehn 2004; Lewis 2010). Only relatively recently has legislative protection extended explicitly to whistle-blowers who go public, as opposed to those who use official channels; with the UK and, most recently, Queensland’s *Public Interest Disclosure Act 2010* providing special leadership in this respect (Brown 2011).

Journalism ‘shield laws’ are also important. These provide a special legal privilege to confidential communications between journalists and their sources. In Australia, the federal *Evidence Act* was amended to that effect in 2011, although in the USA such reform has foundered over a long period (Brown 2011). However, shield laws function primarily to protect journalists—saving them from jail or fines for contempt of court—and only secondarily to protect whistle-blowers, who may still be prosecuted.

Journalists therefore have a responsibility to give whistle-blowers good advice about how best to protect themselves. They have a responsibility to adopt practical strategies for minimising the chances that their communications with whistle-blowers can be traced or identified. They also need to consider whether they might be compelled to name a source in court.

For extremely risky stories, such as those involving national security or law enforcement, it is best to avoid electronic communications with the whistle-blower entirely. Electronic communications are the most effective (and cheapest) way to link a whistle-blower and a journalist. A trusted go-between, snail mail and agreed drop locations are preferable.

If electronic communication is necessary, however, both the journalist and the whistle-blower should armour themselves properly. The most comprehensive guide for doing this is on the *Surveillance Self-Defense* website by the not-for-profit (and independent) Electronic Frontier Foundation in the USA (see the Website References at the end of this chapter). Beyond this, there are other issues that good journalists should consider regarding how best to manage and protect their sources. Like law enforcement agencies that make good use of whistle-blowers, journalists' sense of responsibility should not always end with the story. News organisations cannot compensate whistle-blowers for *all* the stresses and difficulties that may befall them as a result of providing public interest information to the media—but good journalists and editors are clearly aware that they do owe at least a moral duty of care towards these most valuable of sources. How best to identify and fulfil this duty is likely to be an increasing topic of debate among journalists, publishers, media regulators and the wider public.

CONCLUSION

HUMINT remains an essential source for investigative journalists. People who leak information provide much of this, and whistle-blowers are one of the most important sub-categories of HUMINT sources. Whistle-blowers who choose to go outside their organisations to the media in order to blow the whistle may have a palette of motivations. The desire to reveal wrongdoing in order to seek justice is one of the most common. The desire for retribution or revenge also appears as a motivation in some cases, such as in organised crime stories.

Understanding motivation is important in order to determine how much to trust the source, the accuracy of the leaked information, and the degree of risk that surrounds the source—both the risk of them sharing the information with others, and the risks of retaliation to which they are likely to be exposed if, or when, they are identified. Obtaining documents is often important to verify the whistle-blower's account and to protect the journalist from organisations that try to discredit both the whistle-blower and the journalist's story.

Technology has made it more difficult to hide communication links between journalists and their human sources. This puts whistle-blowers at greater risk. The further exploration of technology's impact on whistle-blowing to the media is a worthwhile area of study that may help to protect the free flow of information from what is an important journalistic source of information.

QUESTIONS TO CONSIDER

- 1 Define the term 'whistle-blower'.
- 2 Why do whistle-blowers tend to release evidence of wrongdoing to the media rather than keeping it to themselves or advising a senior person within the organisation?
- 3 What risks do whistle-blowers face in publicly releasing previously confidential information?
- 4 How can journalists help protect whistle-blowers?
- 5 What are the ethical questions journalists should consider when considering:
 - a if and how to protect whistle-blowers
 - b whether to publish or broadcast the information that comes into their possession via a whistle-blower?

TASK

- 1 Go online and find out what legal protections exist for whistle-blowers in Australia and elsewhere. What legislation might they breach when leaking information? Write a 500-word summary of the issues you uncover.

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FURTHER READING

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NOTES

- 1 Participant I in the study described later in this chapter.
- 2 This is adapted from the World Online Whistleblowing Survey, the first multilanguage online survey (and open to everyone) about whistle-blowing ever to be fielded in so many languages (see the Website References at the end of this chapter). The survey was designed, built and run by a research team composed of the authors.
- 3 Note the real pseudonym of the whistle-blower has been changed because it was also an email address.

