



Shooting The Messenger The Need for Effective Whistleblower Protection in Alberta

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Executive Summary

In late 2012, Alison Redford's Progressive Conservative government passed the *Public Interest Disclosure (Whistleblower Protection) Act*. Presented as making good on a longstanding promise, the government argued this legislation offered meaningful safeguards to Alberta whistleblowers.

Unfortunately, this claim does not stand up to scrutiny. The Alberta law does not protect those who blow the whistle on incompetence or corruption, nor does it ensure that such allegations will be properly investigated. As various scandals, such as those related to food recalls at the XL Foods meat-packing plant in Brooks, Alberta, and safety along TransCanada's pipeline infrastructure have demonstrated, Albertans are vulnerable to government and corporate wrongdoing that can affect their health, safety, and financial security in many ways. Alberta's new law does nothing to change this.

Protecting whistleblowers – honest employees who speak up about suspected misconduct – has been shown to be a powerful tool for combating malpractice and corruption. In the absence of effective whistleblower protection laws, Albertans run the risk that wrongdoing will go unnoticed, with potential consequences including the misuse of funds, serious physical harms or even loss of life related to food or water, and potentially irreversible damage to our natural environment. Based on in-depth knowledge of whistleblowing within Canada and extensive international research on whistleblowing protection, this report assesses the current situation in Alberta and makes evidence-based recommendations on how to achieve much-needed improvements.

There is now a strong, well-documented international consensus regarding best practices in relation to whistleblower protection. Yet Canada is a laggard in this field, with both federal and provincial governments making promises, stalling for years, and then introducing flawed and ineffective legislation. Other jurisdictions, notably the USA, UK, and Australia, are far ahead of us – by decades in some cases.

This report demonstrates the need for effective whistleblower protection by documenting the devastating consequences of blowing the whistle, including employer reprisals, media scrutiny, and psychological trauma. Even if a whistleblower succeeds in exposing wrong-doing, the damage to professional and personal life is often substantial. Proponents of effective whistleblower protection laws often find themselves facing essentially the same barriers that individual whistleblowers face: negative portrayals of whistleblowers; reflexive hostility towards the idea of whistleblower protection; and entrenched or systemic wrongdoing in high places.

The report also examines the Alberta situation, detailing the flaws in the current *Public Interest Disclosure (Whistleblower Protection) Act*. It highlights how the dangers inherent in such inadequate legislation are further aggravated by some of the conditions that prevail in Alberta, including:

- An energy industry that has enormous influence within the province and a questionable track record on public safety and environmental protection.
- A government that is committed to further privatization, even though such arrangements have often led in the past to substandard work at inflated prices.
- The widespread use of temporary foreign workers, who may become trapped in work environments that are dangerous both to them and to the public.
- A lack of transparency regarding public expenditures, aggravated by the increasing flow of public money to private industry.

A review of jurisdictions that have implemented effective laws suggests that this can only happen when several factors come together, the most important being major scandals or preventable disasters that generate sustained media attention. However, as Alberta's own history demonstrates, scandals and disasters may not necessarily lead to meaningful reforms. There is also a need for advance preparations to seize the opportunities when they arise. This groundwork is typically carried out by public interest organizations that pave the way by, for example, conducting research, educating the media and the public, and developing concrete proposals – thus providing tools that can help unite coalitions of interested parties around specific goals.

Our recommendations follow directly from our analysis of other countries' experience, and the current situation in Alberta. Since the formal legislative process has thus far failed to translate public demand into meaningful protection for whistleblowers, we recommend that concerned Albertans should:

1. Launch an alternative process with the aim of replacing the current law.
2. Engage the various stakeholders, perhaps in a coalition, with the aim of education the participants, sharing perspectives, and building an informed consensus.
3. Initiate the process by holding a conference involving representatives of all stakeholders to find common ground, agree on objectives, and develop a collective commitment to proceed.

There are many possible stakeholders who should contribute to this process-including academics, unions and professional associations, business leaders, and politicians - once they understand how protecting whistleblowers serves their self-interest. Albertans deserve no less from all those who claim to serve the citizens of this province.

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