

Summaries

Justitiële verkenningen (Judicial explorations) is published eight times a year by the Research and Documentation Centre of the Dutch Ministry of Security and Justice in cooperation with Boom Lemma uitgevers. Each issue focuses on a central theme related to judicial policy. The section Summaries contains abstracts of the internationally most relevant articles of each issue. The central theme of this issue (no. 7, 2013) is *Whistleblowing*.

Towards a general Whistleblowing Protection Act

M.A.P. Bovens

The private member's bill 'Huis voor klokkenluiders' is a step forward in the protection of whistleblowers in The Netherlands. However, adoption of the bill will not end the discussion about the protection of whistleblowers, because the bill has several flaws. The new 'Huis' has too many roles, the 'Fonds' provides the wrong incentives, and whistleblowers who go straight to the relevant authorities are not protected. Therefore, the next step should be a general Whistleblowing Protection Act, which provides legal protection, both to public and private employees who report serious organizational deviances to the relevant authorities and who, in doing so, have acted with due care. Enforcement of the Act, including the award of compensation, should be provided by the industrial law courts and not by a 'Huis' or a 'Fonds'.

A shelter for whistleblowers. Will the House contribute to the ideal of transparency?

C. Raat

The draft of the Dutch Whistleblower Protection Act that is currently discussed in Parliament can be regarded as an essential step forward in the protection of whistleblowers. However, it can be questioned if the Act will contribute in an optimal manner to the ideal of transparency and the fight against the abuse of power, which should be the main goal of the Act. The tasks and powers of the new House for Whistleblowers are rather unclear and they do not meet legal standards. The combination of advice and support to whistleblowers and independent research into major violations of integrity should be abolished.

It is all about transparency. A critique of Publeaks

J. Beckers, H.G. van de Bunt and K. van Wingerde

As a result of the democratization of technology we now seem to live in an era of 'Wiki-regulation'. Increasingly transparency is considered to be the universal solution to all sorts of problems. In line with this dominant viewpoint there has been a proliferation of whistleblower initiatives in recent years. A newly established Dutch initiative is Publeaks. Launched by a large number of Dutch media outlets and aimed at protecting whistleblowers, shedding light on wrongdoings and encouraging investigative journalism, Publeaks is a website 'for people to leak documents to the media securely and anonymously'. In this opinionated article the authors propose three arguments against this particular form of whistleblowing: the protection against unfounded accusations, the negative side effects of 'scandal overkill', and the value of non-transparency.

The Dutch Advice Centre for Whistleblowers in practice

H.G. de Jong and L.S. Mol

The Advice Centre for Whistleblowers in the Netherlands (*het Adviespunt Klokkenuiders*) opened on 1 October 2012 and offers independent and confidential advice to (potential) whistleblowers. Even though the Advice Centre opened only recently, this article gives an overview of the findings of the Advice Centre up-to-date, because of its relevance for the public debate on whistleblowers. The article *inter alia* mentions the number of whistleblowers that needed advice from the Advice Centre, the sectors where they work(ed), the types of wrongdoing involved in the cases and it describes the questions and dilemmas of whistleblowers who approached the Advice Centre. The article also points out how the Advice Centre could help persons with raising their concern about possible wrongdoing or malpractice in the workplace.

A listening ear. The internal reporting system within the Dutch public sector

G. de Graaf and K. Lasthuizen

Whistleblowing and whistleblowers have received a lot of attention over the last decade, not just in popular discourse, also in academic research. So by now we know a lot about 'the' whistleblower; internal reporting procedures received less attention. That is remarkable,

because from previous research we know that by far most reports of wrongdoing are (first) reported internally. Reporting in line seems the most logical step for most observations, but how well are Dutch public managers handling these reports, and what are the experiences of and with so-called confidential integrity advisors? The authors' main research question is: *How does the internal reporting system function in the public sector, and what improvements are possible?* Here the authors answer these questions based on a survey conducted among Dutch civil servants, which was filled out by 7,543 respondents and on 25 in-depth interviews with confidential integrity officers.

Motives for reporting organizational misbehavior. A qualitative research inside the Belgian federal police

K. Loyens

Whistleblowing research should more explicitly focus on underlying motives for the decision to report on organizational misbehavior. Arguably, these motives are connected to the factors that can explain the decision whether or not to blow the whistle. Reporting for egoistic reasons can probably be explained by other factors than reporting for altruistic reasons. This article aims to enrich the whistleblowing literature by proposing grid-group cultural theory as an alternative approach. This theoretical framework could provide more insight into reporting decisions by identifying various motives for such decisions and linking them with elements in the organizational culture that could explain them. As an illustration, the theory is applied in an ethnographic study in two investigative teams of the Belgian federal police. More research is, however, needed to fine-tune the conceptual framework and to test the preliminary findings of this empirical study.

Whistleblowing principles: the Council of Europe's approach

P. Stephenson and M. Levi

National governments have adopted a variety of approaches to the protection of whistleblowers. This article refers to examples in Slovenia, the United Kingdom and the United States of America, and ongoing work in Ireland, the Netherlands and Serbia. It is not always clear what would count as success, but none of the existing laws appears to have wholly achieved its aims. The Council of Europe aims to establish some common ground in Europe by drafting a Recommendation which will establish principles on which Member States

should draft laws and establish systems. This article considers the work done so far on the draft Recommendation, discusses some of the most important and problematic aspects, and suggests improvements.

Protecting whistleblowers: recent lessons from Australia

A.J. Brown

This article seeks to aid understanding of the ways in which different policy purposes, approaches and legal options can be combined in the design of better legislation, using Australia's recently passed Public Interest Disclosure Act 2013. It provides a guide to key elements of the new legislation, as an example of legislative development taking place over a long period, informed by different trends. In particular, it is one of the first national laws to seek to integrate divergent approaches to the 'anti-retaliation' model of whistleblower protection, including its place in the employment law system, it sets new standards for the role of 'public whistleblowing' in such a regime, and provides new responses on basic questions of coverage, including which individuals are able to gain the benefit of the legislation. This provides lessons as to how different legal approaches might be better integrated, in pursuit of a clearer understanding of the interface between whistleblowing and other integrity reforms.