

THE WHISTLEBLOWERS PART 7 OF AN 8-PART SERIES

FEATURE HILL LIFE & PEOPLE

‘Whistleblowing is like riding a tiger: the moment you do this, you’re marked’

Health Canada scientist Shiv Chopra, who spoke out about drug approvals, is still fighting for his job 10 years later.

The Hill Times presents the seventh of an eight-part series titled, “The Whistleblowers.” We wanted to find out from some of the country’s best-known government whistleblowers if their actions have actually made a difference to government policy today and if, given the personal costs to their lives, they’d do it again.

BY JESSICA BRUNO

Whistleblowing is “like riding a tiger,” says Shiv Chopra who spoke out against what he saw as risky drug approval procedures while working at Health Canada, and has been fighting to get his job back for nine years.

“You will never escape. You’re going to have to die fighting; you are riding the tiger so hold onto that mane tightly,” said Mr. Chopra.

In 1988, Mr. Chopra worked in Health Canada’s bureau of human safety, where he was a senior veterinary drug evaluator, testing hormones and medicines that could enter the human body indirectly by eating the animals the drugs had been used on.

He was assigned a new bovine growth hormone to test that would increase a cow’s output of milk. Mr. Chopra wanted to know how much of the hormone would be present in the cow’s milk, and what effects that could have on people.

“Even the smallest amount of hormones can induce major changes,” Mr. Chopra, now 80, told *The Hill Times* in an interview.

He alleged his supervisors pressured him to pass the drug quickly because the U.S. had already approved its use. Mr. Chopra objected. Eventually, he said he obtained information that showed the manufacturer of the drug had conducted a study of the hormone’s effects on rats, and that they had health issues.

“My department continued to push,” he said. He alleges the pressure to pass the drug came from the Privy Council Office and the Prime Ministers’ Office, who were themselves being pressured by the drug companies. A recent labour relations board hearing has found this claim to be unsubstantiated.

Mr. Chopra held on to the growth hormone file through the years.

In 1997, Mr. Chopra was promoted to be acting chief over animal efficacy and safety division, where scientist Margaret Haydon worked. He still had the file on the bovine growth hormone. Ms. Haydon was a senior drug evaluator, and she was working to determine how the same hormone would affect cows’ health.

She wanted research documents from the company that would indicate whether the drug was safe. She found the studies conducted by the drug company were deficient. Animals that were tested in one round of the study were not used in later rounds. Mr.



Think twice: Shiv Chopra, a former Health Canada senior veterinary drug evaluator who worked in the bureau of human safety, pictured in 1998, said he sometimes gets calls from people thinking of blowing the whistle and tells them not to do it if they’re motivated by personal gain. *The Hill Times photograph by Jake Wright*

Chopra said Ms. Haydon’s research indicated the hormone caused abnormal growth and reproductive patterns in the cows.

The two have alleged they were pressured by their bosses to pass this and other hormones while they had doubts about the health safety. Health Canada has stated their allegations are unsubstantiated, and that drug decisions were made in accordance to Canadian law.

The scientists brought their concerns about the way Health Canada approved drugs to the attention of their associate deputy minister, and asked for the Prime Minister to intervene. Getting no response, they went public with their concerns that the approval process was letting in unsafe drugs for use in animals destined for human consumption.

After the two took their concerns to the national media, each received a letter from the department telling them to stop speaking to the press without prior approval, and scolded them for speaking out.

In 1998 and 1999, the scientists were called by the Senate Agriculture Committee to speak about their situation and the approval of drugs by Health Canada. The department first told them they could not speak. Ultimately, Privy Council Office officials prepped them for the meeting.

The dilemma for the scientists was whether sharing their concerns about drug approval with the Senate would violate their oath of loyalty as public servants, Mr. Chopra explained. He said he went with what he saw as the truth.

“When we went to testify before the Senate committee, it exploded,” said Mr. Chopra of the response in Parliament and from the media to their allegations.

The Senate committee released a report into the drug approval process and the growth hormone in March 1999, and cited the scientists’ testimony in their conclusions. They recommended that Health Canada review its drug approval procedures, under the eye of the auditor general. It also recommended that decisions on the safety of drugs rest with the evaluators, and that the bovine growth hormone not be

approved without additional safety information from the manufacturer.

Ms. Haydon and Mr. Chopra asked the Federal Court to review whether the scolding letters they received from the department after speaking out were an unreasonable limitation on their freedom of speech.

In 2000, the court ruled that after exhausting channels within the government to express their concerns about the drugs, it was their duty to go public.

“The scientists were justified in going to the media and they should not have been reprimanded for doing so,” wrote the Federal Court.

“I thought, ‘At last I am in the clear,’” said Mr. Chopra. But the scientists continued to speak out, and their legal troubles didn’t end there.

G rard Lambert was a senior drug evaluator in Mr. Chopra’s division with decades of experience. He also testified at the Senate committee and spoke out in the media in 2002 and 2003 about the drug approval process.

Mr. Lambert and Mr. Haydon did not respond to requests for interviews.

In November 2002, they and Cris Bassude, another Health Canada scientist, held a press conference where they questioned Health Canada’s ability to keep Canadians safe.

Mr. Chopra, Mr. Lambert and Ms. Haydon were each suspended from work as a result of these and other media statements. Mr. Bassude died shortly after the press conference of a suspected heart attack.

The scientists faced growing resentment within their department from colleagues. In 2002, other employees of Mr. Chopra’s work unit wrote a letter to their union, the Professional Institute of the Public Service of Canada, stating they never felt pressure to approve drugs. They filed a harassment complaint against the outspoken scientists for putting them into what they felt was public disrepute.

An independent investigator hired by the government found that Mr. Chopra and the other outspoken scientists were not harassing their colleagues, but were out of line for speaking up.

“The respondents apparently believe they have the right to criticize the department as long as they feel it’s in the public interest. ... This view is a gross misapprehension of their rights and obligations as public servants,” the investigation report stated.

The scientists took concerns about the drug evaluation process, and their allegations of pressure, to the precursor to the Public Sector Integrity Commission, the Public Sector Integrity Office, in 2002. The PSIO initially concluded all their allegations were unfounded and the scientists appealed the decision at the Federal Court. The court’s review of the decision found the PSIO investigation was incomplete and ordered them to do more work on the file.

The Public Sector Integrity Commission, under then-commissioner Christiane Ouimet, inherited the case and closed the second investigation in 2009. Ms. Ouimet said any disputes between the scientists and the drug evaluation methods being used at Health Canada were ultimately under the discretion of the Health minister.

In 2011, new commissioner Mario Dion re-opened the cases handled under Ms. Ouimet after an auditor general’s report revealed she had not found any cases of wrongdoing during her three-year tenure, and concluded she had been abusing her own staff. The scientists’ case was re-evaluated, but Mr. Dion decided not to reopen their complaint.

Ms. Haydon and Mr. Chopra went to Federal Court to have his decision overturned. The court ruled in June of this year to uphold Mr. Dion’s decision not to reopen the case. The scientists are now before the Federal Court of Appeal to try and overturn the decision again.

Over the years, the scientists spoke to CTV, *The Globe and Mail*, the CBC, radio stations, and many other media outlets. Their statements weren’t limited to Canada’s approval process for drugs. They also raised concerns about how Canada was handling mad cow disease and other health issues.

In 2003, Mr. Chopra was disciplined for being on unauthorized sick leave. He was teleworking at

the time, but the arrangement was stopped and so he went on leave. He alleges that stopping his telework arrangement was a pressure tactic by the department.

Forcing him to work out of the office meant he would be in the same workplace as those who filed the harassment complaint against him, said Mr. Chopra.

He explained that speaking out and the later ostracism took a serious toll on his health, and he developed shingles due to the stress.

The scientists were separated from each other and isolated from their colleagues, Mr. Chopra alleges.

“We couldn’t go out, nobody could come in. It was extremely stressful, all of us were extremely sick,” he said. Health Canada has said they were separated from colleagues because of the harassment complaint against them at the time. A labour relations board ruling found no evidence that they were separated as a punishment, or that they couldn’t communicate with colleagues.

The scientists’ annual performance reports alleged they took too long to do work, or that their work wasn’t good enough, claims the scientists disputed. Mr. Chopra’s review stated he only completed one week’s worth of work in the four months he was teleworking. It also stated he was insubordinate because he insisted on working from home.

The scientists’ manager at Health Canada alleged they were each insubordinate because of their failure to follow through on assignments.

Ms. Haydon and Mr. Lambert also went on and off of sick leave. She, Mr. Chopra, and Mr. Lambert were all fired while on leave, on July 14, 2004.

The scientists considered these accusations baseless and disputed the performance reports and their firings at the Public Sector Labour Relations Board.

Mr. Chopra alleged that he was assigned unreasonable work that set him up to fail.

In August 2011, the Public Sector Labour Relations Board ruled against Ms. Haydon and Mr. Chopra’s attempt to get their jobs back.

Adjudicator Ian Mackenzie stated that in his opinion, Ms. Haydon and Mr. Chopra were “incapable of being supervised,” despite their long years of service. The year Mr. Chopra was fired he had been a public servant for 35 years.

The board’s ruling also disputed Mr. Chopra’s allegation that he was told not to look at certain evidence when evaluating the drug.

“I can find no evidence that Mr. Chopra was told not to look at data,” wrote Mr. Mackenzie.

The court did rule in favour of Mr. Lambert, re-instating him in his job. The court found that in his case,

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‘Like riding a tiger’

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his supervisor didn't fairly assess his work. He did return to work at Health Canada as a drug evaluator, but has since left.

Ms. Haydon and Mr. Chopra continue to fight for their jobs.

“We don't see the justification at all. All three are fired for the same reason, one is taken back and the other two or not. There is no rationale,” said Mr. Chopra.

Mr. Chopra told *The Hill Times* he would “absolutely” go public with his concerns again, if he could do things over.

“This is what I am supposed to do. That's my upbringing. That's what a scientist is supposed to do. What I am doing is not peculiar or new,” he said.

In 2011, Mr. Chopra, Ms. Haydon, and Mr. Lambert were presented with the inaugural Canadian Journalists for Free Expression Integrity Award. It honours “individuals who acted courageously in the public interest without thought of personal gain, and in doing so risked reprisals in the form of threats to their careers, livelihood or personal freedom.”

The scientists have received other awards from public health and whistleblowing groups.

Mr. Chopra said he doesn't think his outspokenness has provoked any concrete measures in improving drug evaluation and safety in Canada.

“Nothing so far can come of it,” he said.

Prospective whistleblowers sometimes call him for advice, said Mr. Chopra.

“I tell them, ‘Don't do what I did,’” he said.

“If you're doing it for personal gain, a job, or a promotion, or to go forward, don't do it, because that's not what the purpose of whistleblowing is. Whistleblowing is for the public interest,” Mr. Chopra said he tells them.

“Secondly, I always ask them, ‘How old are you? How old are your children? Do you get along? How about your wife or your spouse? Because people get heart attacks. Marriages break up.’ This is a very, very, serious matter,” he said.

“Whistleblowing is like riding a tiger. The moment you do this, you are marked. You will never escape. You're going to have to die fighting; you are riding the tiger so hold onto that mane tightly. That's my advice to them,” said Mr. Chopra.

But he doesn't think Canada needs a specific whistleblower protection law, as there are already provisions in the Financial Administration Act, against fraud, bribery and criminal activity in government, he said. If those were applied properly whistleblowers' concerns would be taken seriously, he added.

He said he is thankful for the support of his family and the Professional Institute of the Public Service of Canada.

“The union all the way from the very beginning recognized that we weren't doing it for ourselves,” he said.

After the labour board's decision, PIPSC said in a statement it supported an appeal. It added the ruling failed to balance a professional's responsibility to speak out with duty to an employer.

“This case is the latest example of the government's inability to protect its employees who are ethically and legally compelled to come forward and speak out when public safety and the food supply is threatened,” said PIPSC President Gary Corbett at the time of the ruling.

“Although whistleblowing legislation is now in place, its provisions obviously do not provide adequate and effective protection to public service employees who witness and denounce situations of wrongdoing. From our perspective, this sends yet another message that will dissuade public service employees from exposing wrongdoing and the case is of grave concern for the institute,” added Mr. Corbett.

The situation has had a toll on Mr. Chopra and his family, he said. His wife of more than 50 years, Nir-mala, also worked at Health Canada. He alleges her career also suffered as a result of his outspokenness.

He has two grown sons and a number of grandchildren. He noted that his grandchildren have gone from being children to young adults while his case remains unresolved.

“Without them, without her, and even without my grandchildren, I could not do it,” he said.

“I don't know how to describe this whole situation. We're in it and it remains with us,” he said.

He estimated the government and the union have spent millions of dollars fighting this case, and that he and Ms. Haydon would be owed close to \$1-million each in lost pay were they to be reinstated.

Even if he and Ms. Haydon win their application for judicial review, that simply means the fight begins anew at the labour relations board.

He said that after so many years, he is not expecting a speedy resolution any time soon. The first labour board ruling took 150 days of hearings and seven years.

“This case will carry on, probably beyond my death. It has now gone on, the same issue, for well over 20 years. I am not hankering for \$1-million, though it is legitimately my money. The biggest damage from my point of view is to the people of Canada,” said Mr. Chopra.

Mr. Chopra's appeal against the Public Service Integrity Commission for refusing to investigate a collective complaint by several Health Canada scientists with allegations of being “pressured to pass drugs of questionable safety” is being submitted to the Supreme Court of Canada in September.

Mr. Chopra wrote a book in 2009, *Corrupt To The Core: Memoirs of a Health Canada Whistleblower*, and he publicly speaks in Canada, Australia, New Zealand, and India about his whistleblowing experience. He also started the Canadian Council on Food Sovereignty and Health, which is aimed at establishing Canada as world leader in organic food and agricultural production and “to ensure sustainable, local, organic food production with no inputs of hormones, antibiotics, slaughterhouse waste, GMOs, pesticides, and other substances of questionable safety.”

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NEWS POLITICAL FUNDRAISING

Tory base responding to ‘Reefer Madness redux’ attack ads against Trudeau

Attack ads have spurred supporters in the Conservative Party's base back to their pocketbooks.

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redux, starring Justin Trudeau, coming to a schoolyard near you, sponsored by Stephen Harper,” Mr. Graves said in commenting on the latest political party financial returns for the first half of 2014.

Reefer Madness, an anti-drug film originally made as a cautionary tale about the dangers of marijuana as a gateway drug in the early 20th century, emerged in the 1970s as a satirical reaction to concern over the North American explosion in marijuana use on college campuses in the 1960s, a black and white film depiction of young adults apparently crazed and psychotic after smoking marijuana.

The latest attack against Mr. Trudeau over the policy—despite substantial support among young and mid-aged Canadian adults for marijuana legalization and its legalization in two U.S. states—came last week in the form of a House of Commons flyer distributed by Veterans Affairs Minister Julian Fantino in his Toronto-area riding of Vaughan.

“It's unbelievable, but I think it's effective with their base,” Mr. Graves said in an interview with *The Hill Times*, responding to the fact that the number of donors to the Conservative Party increased by more than 4,000 in April through June, to a total of 35,837 donors for the quarter.

Even the Liberal Party reacted with initial alarm a week ago to the relatively stable fortunes of the Conservatives in terms of fundraising, with a formidable haul of \$4.7-million during the same period, up by nearly \$200,000 from the first quarter of the year, and the disappointing fact Liberal donors had dropped by nearly 6,000 compared to the second quarter of 2013.

Veteran Conservative commentator Tim Powers agreed the ads attempting to brand Mr. Trudeau as a threat to young Canadians because of his policy position advocating legalization of marijuana, as well as companion ads alleging some members of the Parliamentary Press Gallery and unidentified news outlets are soft on Mr. Trudeau, have spurred supporters in the Conservative Party's base back to their pocketbooks following an almost unprecedented nine-month decline in the number of donors in 2013, during the controversy over Prime Minister Stephen Harper's (Calgary Southwest, Alta.) PMO interference in Senator Mike Duffy's expense scandal.

“I do think that any ad that gets at Justin Trudeau and his decision-making and his so-called policies, like the so-called, if you want to call it ‘Reefer Madness,’ does play well with the Conservative base and I think what those ads and oth-

ers try to do, is paint this picture, and I think there's the other one talking about how the media is giving Justin a free ride,” Mr. Powers told *The Hill Times* in an interview.

“Put all together, I think that stuff really works with the Conservative base,” Mr. Power said. “The Conservative base is inclined to work anyway; Trudeau is a hot button for them, so you're almost hot-knifing Trudeau when you put Justin Trudeau's name in any particular ad, and then tie that into suspicions that exist about certain media organizations, and I think that works with the Conservative base.”

The 2014 second-quarter party financial returns showed the Conservatives maintaining their lead in fundraising, with \$4.7-million in contributions, up by \$146,414 from the first quarter of the year, although down slightly by \$161,788 from the second quarter of 2013.

The NDP showed the only gain among the three major parties, in terms of contributions for the second quarter of 2014 compared to the second quarter of 2013—but its total intake of \$1.37-million was a quarter of the Conservative total, and the NDP had only 21,013 donors, up slightly from the same quarter in 2013.

The NDP reported a \$1-million decline in contributions from the first quarter of 2014—but that was a once-only hit after Peter Kirk Sinclair of Ottawa, a Second World War air force veteran who died in March 2012, bequeathed exactly \$1-million in donations to the party through his will. The contributions were reported as a donation of \$400,000 in January 2013, and another donation of \$60,000 in March.

The Conservative government capped testamentary contributions to a political party to the annual limit for any individual in Elections Act amendments it passed in Bill C-23 last June.

The Liberal party, which received \$2.8-million in contributions from 32,272 donors in the second quarter of 2014 compared to \$2.9-million from 38,014 donors in the second quarter of 2013, also experienced a substantial decline in contributions from the first quarter of 2014 to the second quarter—a total of \$921,382.

But Liberal party communications manager Olivier Descheneau said the appearance of such a large decline for the period April through June was explained by the extraordinary donations, totalling roughly \$1-million, that the party received through fees from nearly 3,000 delegates to the February Liberal convention in Montreal.

As well, with respect to the \$100,000 decline in contributions compared to the second quarter of 2013, Mr. Descheneau said the federal Liberal party suspended virtually all of its fundraising activities in Ontario leading up to the June 30 provincial election to leave room for provincial Liberal fundraising.

“They were in an election; we wanted to give them some space,” said Mr. Descheneau, adding that the party is “happy” with the second quarter results that he said shows “we have long-term sub-

stantial growth in our donations.”

NDP spokesman George Soule argued the NDP also believes it did well in the second quarter of the year compared to the same period last year, and confirmed the federal NDP also suspended Ontario fundraising during the election campaign.

“We stopped everything during the election, but we still went up,” Mr. Soule said in an interview.

Mr. Graves said it is the second-quarter performance of the Conservatives that stands out as the greatest indicator of party rank-and-file agitation in advance of the 2015 election.

In 2013, the Conservative Party experienced a decline in its number of donors through three successive quarters prior to the traditional fundraising drive all parties mount in the final quarter of the year—from 38,610 donors who contributed a total of \$4.4-million in January through to the end of March to 28,968 donors who gave the party a total of \$3.4-million from Sept. 1 through to Dec. 31.

Though there is no evidence of a link, the numbers of donors from the Conservative base dropped steadily as the scandal grew over \$90,000 Mr. Harper's former chief of staff, Nigel Wright, gave Sen. Duffy to repay ineligible Senate expense claims in a bid to end the storm.

The party has experienced only one other continuous decline in both donors and contributions through nine successive months—in 2007 following Mr. Harper's election as Prime Minister in 2006.

As far as the positive results from the first two quarters for the Conservatives go, the party has only in one other year experienced an increase in both contributions and its number of donors from the first quarter to the second—in election year 2011.

“I think they're fearful, and they're being played on that front [through the attacks against Mr. Trudeau] and they're responding,” Mr. Graves said.

“I would say good, money is always nice to have, but if you're out there stimulating fundraising at the expense of alienating parts of the spectrum that you absolutely have to have to win a government, then you've got to wonder how smart that is,” he said.

Mr. Powers agreed the Conservative strategy is working, evidenced by the party's fundraising success in the first two quarters.

“You focus on a common enemy, right, a common political enemy for donors in the Conservative Party, for people who are that motivated, in this case it's Justin Trudeau, many of those donors I suspect are people who have always had political issues with the Trudeau family,” Mr. Powers said.

“The fact that Justin has been doing well in the polls is a legitimate political threat, it incites Conservative donors to donate more so that resources are there for the Conservative party to take Justin down,” he said.

“They don't want to have the Conservatives go up in smoke and be rolled up and dusted off by Justin,” Mr. Powers said.

The Hill Times