



# Contractor Safety Management



Edited by  
**Gregory William Smith**

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# *Introduction*

After the publication of my first book (Smith, 2011), my publisher was generous enough to ask me if I had any ideas for another book. At the time, I was dealing with a number of issues to do with contractor safety performance and contractor safety incidents. I was working mainly with principals to help them better understand and manage their obligations for health and safety in a contracting relationship.

In a number of cases, the work involved clients whose experience of safety management generally, and contractor safety management in particular, was formed outside of Australia. They were primarily foreign companies that had come to Western Australia to take advantage of the booming mining and oil and gas industries, but had come with little understanding of either the legal requirements or cultural attitudes that influenced safety and health. These requirements and attitudes affected not only the laws and attitudes of regulators, but also the way that principals and contractors worked (or did not work well) together to manage health and safety risks.

Although the lack of understanding was disconcerting, it was also unsurprising. I had been involved in numerous cases where Australian companies had moved into projects overseas with equally limited understanding of their rights and responsibilities for safety and health in different countries, and equally limited strategies for managing health and safety in contracting environments. Indeed, strategies, such as they were, seemed to consist mainly of doing exactly what they had been doing in Australia and assuming that it would be sufficient in the new jurisdiction. What made this strategy all the more surprising is that it did not work particularly well within Australia so there was no real reason to expect that it would work any better anywhere else.

By and large the strategies of large companies coming into Western Australia appear to be the same; do what we did previously and elsewhere, and assume that it will deliver an acceptable result.

Increasingly, companies seemed disappointed by the results.

This book commenced with a general notion of trying to draw together ideas about contractor safety management to distil some key concepts and

build guidance for principals and contractors about how to better manage health and safety in contracting relationships. As I began to develop the ideas for the book a number of things became apparent.

First, there seemed to be very few comprehensive publications looking at the issue of contractor safety management. What I could find through my research was the occasional article about contractor safety management or a section about contractor safety management in a broader publication about safety management generally. In other words, books about safety management would include some observations about contractor safety management, but overwhelmingly it was treated as a subset of safety management—to be dealt with for all intents and purposes in the same way as safety management generally.

Second, contracting relationships seemed to be increasingly implicated in major accident events around the world—in recent times, the Pike River Coal Mine\* disaster, the Deepwater Horizon disaster in the Gulf of Mexico† and the Montara incident in Australia‡.

In one sense, this is probably unsurprising because major enterprises have always relied on contractors in the conduct of their business. But it did seem to me that there was an increased focus in the relevant inquiries on the relationship between principals and contractors and how that relationship might affect safety performance.

Third, and perhaps running in parallel with the ‘involvement’ of contractors in major accident events, was the almost universal experience of increasing numbers of contractor ‘incidents’ in injury statistics. Again, there is probably nothing particularly surprising about that. The changing nature of workforces and working relationships in many countries means that the use of contractors as opposed to employees is more common. I think that it is also true that historically (and currently) contractors are often engaged to do high-risk work.

Anecdotally, however, a number of contractors have suggested to me that they get better safety performance in different contracting relationships, so there may be something in the contracting relationship that influences safety outcomes. I suspect this is an area in need of further research.

Fourth, many clients and businesses that I worked with were devoting more and more time and effort to concerns over their contractor safety performance without, it seemed, much in the way of improvement.

Finally, consistent with my first point—limited material dealing with contractor safety management—the strategies and theories for improving contractor safety management seemed to be simple variations on the

\* Underground coal mine explosion in New Zealand on 19 November 2010.

† Drill rig fire and explosion in the Gulf of Mexico on 20 April 2010.

‡ Uncontrolled release of hydrocarbons from a drill rig off the coast of North West Western Australia in August 2009.

themes of general safety management. Without wanting to overuse the term, again this seems unsurprising.

After all, contractors are just another workforce—an employee/employer relationship one step removed—so why wouldn't safety management strategies used in an employment relationship work just as well when I impose them on my contractors?

I think that there are a few observations that we can make here. At a very basic level, for many principals the application of safety management processes in their own businesses are not especially successful so it should not come as any great surprise that imposing those same processes on a contractor would be equally unsuccessful.

Over and above this, however, there are other elements of a principal/contractor relationship that, in my view, influence both safety outcomes and the extent to which a principal can influence those outcomes.

First and foremost is the general short-term, transient and insecure basis of most contracting relationships. Even in relatively long-term contracts, say, 3 to 5 years, in a major project or construction environment 'short-termism' can be a factor. Often a long-term contract moves through a series of stages that requires specialist work groups and additional sub-contractors for short periods to manage 'specialised' stages. So even when the 'head contract' and main contractor might be long term the 'workforce' might still be very short term and transient.

In that type of environment safety management directed towards building cultures, resilience and different skillsets may have very limited and even negative effects on safety outcomes. They simply may have no time to take effect, and in the interim could undermine safety efforts.

Although anecdotal, the types of concerns that are often described to me about a principal's safety requirements in a contracting environment include:

- They take up too much time when there is no allowance for that time in the contract. This in turn puts more pressure on the contractor's performance and schedule.
- They create confusion. From the contractor's perspective they have been engaged because they are the 'experts' in performing the work and they have developed processes to manage the risks associated with that work. When a principal imposes themselves on the contractor and starts telling the contractor how to do the work and what procedures and forms they need to use, it simply confuses all parties about how the work should be performed and makes it likely that errors will occur.
- They are reactive and 'over the top'. Most contractors enter into the contracting relationship with an agreed contract and an agreed health and safety management plan to manage the risks of the work

they are doing. Until there is an incident. Following a safety incident the contractor often finds that they are swamped with a deluge of demands in terms of the incident itself, and new measures that the principal imposes on the contractor. These new measures are often imposed without any regard for the requirements of the contract or the existing health and safety management plan.

The resultant combination of factors is simply a variation on what the Baker Panel Review referred to as 'initiative overload' (Baker et al., 2007, p. 86).

The Baker Panel review was set up to look at BP's safety performance following the Texas City Refinery explosion in 2005. Amongst its many findings, the review identified:

BP's corporate organization has mandated numerous initiatives to its businesses, including its U.S. refineries, during the last several years. ... Each successive initiative has required the refineries to develop plans, conduct analyses, commit resources, and report on progress.

While each initiative has been well intentioned, collectively they have overloaded refinery management and staff. BP's corporate organization has provided the refineries with little guidance on how to prioritize these many initiatives, and the refineries do not receive additional funding to implement each initiative. As a result, senior refinery managers used phrases such as "initiative overload," "incoming," and "unfunded mandates" to describe what they perceived as an avalanche of programs and endeavors that compete for funding and attention. ... Many of the hourly workers interviewed at all of the refineries complained that the large number of initiatives and related paperwork contributed to a heavy workload and prevented the workforce from being as focused on safety and operations as they would like. They also reported that the repeated launch of each successive initiative made it increasingly difficult for the workforce to take any of these initiatives seriously; many interviewees described this as the "flavor of the month" phenomenon.

This description captures the long-held sentiment of many contractors that they are endlessly juggling competing and often contradictory demands

made by the principal in the name of safety and health. In the end, we are left with a contractor and their workforce overwhelmed with initiatives and safety demands with no time or resources to implement them and no clear guidance or expectations on their priority or how they should be implemented.

Instead of managing the work in accordance with the contract and the agreed health and safety management plan, contractors find themselves having to cope with a moveable ever-changing expectation about the way that health and safety is supposed to be managed.

One of the worst aberrations I have seen of this phenomenon came about on a large 3-year construction project. The project had just over 12 months to run and safety performance had not met the expectations of the principal. At this point, the principal directed the contractor to engage a consultant to drive a safety culture programme in the contractor's workforce. For the life of me, I could not see how the initiative was going to do anything but undermine safety on the project. The thought that we could engage a third party (at the direction of another third party) to 'improve' safety culture in a contractor seemed to me (both at the time and now) to fundamentally misunderstand both safety culture and the short-term nature of the difficulties that the project was facing.

What appears to be emerging is that contractor safety management might be different from just managing safety. That a principal's role in 'overseeing' the safety performance of its contractors is different from managing safety in its own organisation. But, our experience would tend to suggest that by and large contractor safety management is seen as nothing more than a subset of general safety management; that no special consideration needs to be given to understanding the difficulties of the contract environment.

In their excellent book *Resilience Engineering* (Hollnagel et al., 2008), the editors describe their objectives as an opportunity for experts to meet and debate the present state of Resilience Engineering.

Without perhaps attempting anything so ambitious in the content of Contracting this book is at least an attempt to start a conversation about contractor safety management and to promote a debate about what is needed to effectively control health and safety risks in a contracting environment. The book does not represent the end of a journey. Realistically, it may not even be a first step. Perhaps it is something more akin to thinking about packing a bag, knowing that the journey is ahead of us.

In 'packing this bag' I am especially grateful to all of the contributing authors and take this opportunity not just to thank them, but to apologise for my efforts as a first-time editor. What you have before you exists despite my efforts as an editor not because of them.

Finally, can I say that I think that the contractor safety management journey is one worth taking. Not just because of what it can do for



the management of health and safety risks in contracting relationships, but what it can add to our understanding of and implementation of safety management strategies more generally.

I invite the health and safety, contract management and risk management community more broadly to think on the topic of contractor safety management. If any readers would like to contribute to future editions looking at contractor safety management, all contributions will be considered and appreciated.

**Greg Smith**

*Legal Practice Director  
STE Safety & Legal*

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## *Editor page*

### **Greg Smith**

#### **Legal practice director at STE Safety & Legal**

Greg Smith is the legal practice director for STE Safety & Legal. He has spent almost two decades specialising in safety and health management, focussing on assisting clients to understand organisational and individual responsibility for safety and health, and implementing and verifying processes to discharge those responsibilities.

Greg is a qualified lawyer who has worked as a partner and legal practitioner in some of Australia's leading law firms. In addition to his legal experience, Greg has worked as the principal safety advisor for Woodside Energy Limited. In that role he reported to the Vice President-Safety and Health, and was responsible for the ongoing development and implementation of Woodside's global safety management strategy.

Key strategic responsibilities included contractor safety management, incident investigation, the introduction of an organisational behavioural framework to drive cultural change, training and competencies, and developing corporate-level standards and procedures.

Greg is qualified in a range of incident investigation techniques, including TapRoot® and Kelvin TOP-SET®, as well as human factors analysis. Greg is also a qualified lead auditor specialising in health and safety management systems.

As a leading safety and health practitioner, Greg's technical expertise is deep, providing some of Australia's largest and most significant employer's with strategic safety and health advice on compliance, incident investigation management and response, contractor safety management and representation in various legal proceedings. His industry experience is broad, applying his safety and health expertise to the mining, oil and gas, construction, telecommunications, banking, manufacturing, defence, local and state government and transport sectors.

Greg has also devised and delivers comprehensive safety and health training programs and is regarded as a leading provider of

safety and health training, particularly in the areas of management responsibilities and contractor safety management. He also teaches accident prevention as part of the School of Public Health, Health, Safety and Environment, at Curtin University in Perth, Western Australia.

Greg has appeared in the Supreme Court, District Court and Magistrates Court of Western Australia, the Federal Court, Equal Opportunity Tribunal and the State Administrative Tribunal. He has also been involved in military boards of inquiry into major accidents.

In 2010 Greg acted for a number of parties in the Montara Commission of Inquiry.

Greg is the author of the book, *Management Obligations for Safety and Health* published by CRC Press.

Greg graduated from the University of Western Australia in 1990 with a Bachelor of Jurisprudence and a Bachelor of Laws and is admitted to practice in the Supreme Court of Western Australia and the High Court of Australia.

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## *Contributing authors*

**Fiona Murfitt, Master of Risk Management, BBus  
(Economics/ Marketing/Law), Cert Training & Assessment  
DuPont Australia Pty Ltd  
Business Director, ANZ and Pacific Islands  
DuPont Sustainable Solutions**

Fiona's career has predominantly focused on working within high-risk operations, with more than a decade working within the oil and gas industry. She has held positions in Safety (SHE), Contractor Management and Risk Management, before joining DuPont Sustainable Solutions (DSS), which is DuPont's consulting arm that helps companies build safer, more efficient and sustainable operations.

She now leads DSS in Australia, New Zealand, and the Pacific Islands, being responsible for the businesses growth and strategic development. She is a member of the DuPont Australia Executive Leadership, the Asia Pacific Leadership Team for DSS, and Chairs the Asia Pacific committee for Respect for People.

Fiona's passion around safety, performance, and culture change came after a family member—Kevin, was killed at work. Kevin was a contractor working on a shutdown and the impacts to the family and friends have left a deep impression. As such, being able to influence the improvement of an organisations performance in a safe and sustained way holds a deeply personal connection for her.

Fiona has written many articles and papers related to safety, culture and contractor management. She has been an Industry representative for the Self Insurers Association (Vic), PACIA, and APIA and represented Industry on Government Tripartite working groups. Her thesis paper, *The Causal Factors of Catastrophes in Industry* focused on learning from incidents. Additional to her formal qualifications, she is also a trained AS4801 auditor, is qualified Root Cause analysis techniques facilitator: TRIPOD, TRIPOD BETA, and Y Tree Analysis, a qualified Bow-Tie Facilitator; MBA Leadership Abridged programme (AIM), and is a DuPont Master Facilitator in the DuPont Integrated Approach

(a Behavioural, Cognitive and Social Approach to sustained safety and culture change).

### **Elias M. Choueiri, PhD**

Prof. Dr. Choueiri is the author/co-author of 15 books, including the following

- **Choueiri, E.M.,** *Trips Towards Traffic Safety*, Dar Al Ma7aja Al Bayda2, Lebanon, 2010; p. 64, in Arabic.
- **Choueiri, E.M.,** *Guide for Drivers and Pedestrians*, Lebanese Association for Public Safety, Lebanon, 2010; p. 133, in Arabic.
- **Choueiri, E.M.,** *Saleh and His Story with Traffic Safety*, Dar El Ilm Lilmalayin, Lebanon, 2009. p. 56, in Arabic.
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He also has over 300 refereed publications, technical reports, conference presentations and newspaper articles.

He pursued his higher education studies at several universities in the United States, which culminated with a Ph.D. in engineering science, with a concentration in transportation engineering, from Clarkson University, Potsdam, New York, in 1987. He holds several graduate and undergraduate degrees in civil and environmental engineering, electrical and computer engineering, mathematics and computer science, and mathematics.

His research interests are mainly in the areas of safety education, safety management, highway design, traffic safety, driving dynamics, driver behaviour, and railway transportation. He has won 19 awards for his scholarship and has held faculty and managerial positions at several universities in the United States and Lebanon.

He serves (and served) on the editorial boards of a number of scientific journals. He is the president of the Lebanese Association for Public Safety (LAPS), Lebanon. He sits on the board of directors of the

World Safety Organization (WSO), chairs the WSO Highway Transport Committee, chairs the WSO Transportation of Dangerous Goods Committee, and serves as WSO Liaison Officer to the United Nations.

**Janis Jansz, RN., RM, Dip.Tch., BSc, Grad.Dip. OHS, MPH, PhD, FSIA**  
Dr Jansz is employed as a senior lecturer, Occupational Health and Safety Environmental Health, Curtin University and has an adjunct senior lecturer appointment at Edith Cowan University in the School of Management. Since 1996 Janis has been the director of the International Labour Organisation (ILO) Communications, Information, Safety (CIS) Centre in Western Australia. She was a member of the executive committee of the Safety Institute of (Western) Australia Inc. from 1990 to 2010 and was the first female president from 1997 to 2000. Janis was editor of the *Australian National Safety Journal* from 1994 to 2000. She was given the Safety Institute of (Western) Australia Inc. Member of the Year Award in 1994 and in 1999 for her professional work in improving occupational safety. Dr Jansz is a member of the Curtin Health Innovation Research Institute, the World Health Organisation Collaborating Centre for Environmental Health Impact Assessment, Centre for Research in Entertainment, Arts, Technology, Education and Communications and a member of the Curtin–Monash Accident Research Centre. Since 1988 she has been a member of the Occupational Health Society and is currently an Executive Committee member of this organisation. Since 1997 she has been Director, World Safety Organisation National Office for Australia, member of the board of directors for the World Safety Organisation and editor of the *World Safety Journal* from 2002. She continues to hold all of these positions. In 2005 and in 2011 Dr Jansz was awarded the World Safety Education Award for her contribution internationally to providing occupational safety and health education. In recognition of her professional work in improving occupational safety and health worldwide through her teaching, research and professional service, Dr Janis Jansz was presented with the award of World Safety Person of the Year at the World Safety Conference in the United States in 2001.

Dr Jansz began her career working as a registered nurse where she cared for people who were injured, ill, and terminally ill people. As a registered nurse and midwife she worked in a variety of city and country nursing positions as a clinical nurse in most areas of nursing and in a range of managerial nursing positions. She has had experience working as an agency nurse in a wide variety of private and government hospitals. Dr Jansz enjoys working as an occupational safety and health professional because she has the opportunity to improve people's health, the work environment, work processes, management and business profitability whilst preventing people from becoming ill, injured or dying due to work-related

causes. Dr Jansz appreciates being able to share occupational safety and health knowledge with other people through teaching, research and writing activities. Author of over 100 journal articles, textbook chapters and conference papers, she has written the distance education material for 18 units of occupational safety and health study for two universities. Research and teaching activity is centred on occupational safety and health management, ergonomics, communicable disease control, health promotion, workers compensation and injury management, safety inspections, audits and risk management, accident prevention, and on developing safety management plans, occupational safety and health policies, procedures and programs.

### **Patrick Gilroy, AM**

#### **Chief Executive Officer**

#### **Mining and Resource Contractors Safety Training Association**

Patrick Gilroy was General Secretary/Deputy Chief Executive Officer, Chamber of Minerals and Energy of Western Australia from 1982 to 1999 with responsibility for the industry OSH portfolio during that period.

In 2002 he was made a member (AM) in the general division of the Order of Australia for his services to occupational health and safety in the mining industry.

He was a member of the WorkSafe Western Australia Commission as an industry representative and latterly as an independent expert from 1987 to 2003.

He was awarded a Centenary Medal in 2003 for services to the Commission.

He is currently the CEO of MARCSTA.

Patrick has made a long-standing and wide-ranging contribution to safety, including:

#### **WorkSafe WA Commission**

- Employer Representative (1986–1996)
- Expert Member (1996–)
- Chairman Fatalities Working Party (1998–1999)

#### **Mines Occupational Safety and Health Board**

- Member of the Interim Board
- Member of the Statutory Board (1994–2000)
- Member of the Occupational Safety and Health Standing Committee (1994–2000)
- Member of the Prevention of Mining Fatalities Taskforce (1997)
- Member of the Risk Taking Behaviour in the Western Australian Underground Mines Sector (1998)

## Major Activities

- Drafting Committee to develop legislation to compensate for Noise Induced Hearing Loss (Workers' Compensation and Rehabilitation Act)
- Drafting Committee for both the Occupational Safety and Health Act and the Mines Safety and Inspection Act.
- NOHSC Advisory Group on the Australian Standard for Respirable Silica.
- Coordinator of Minesafe International (1990, 1993, 1996, 1998, 2000), the world's major conference on occupational health and safety in the mining industry. Proceedings published on all occasions.
- Editor of the *Occupational Health and Safety Bulletin* of the Chamber of Minerals and Energy of Western Australia Inc. (1990–1999)

### Olga Klimczak

LLB (Hons.) BA(Hons.)

LLM candidate, University of Melbourne

Olga is a senior associate based in Perth, Western Australia, and works for a leading international firm, specialising in workplace safety and health, employment, industrial relations and diversity. She has extensive experience advising a range of government and private sector clients in a number of industries, including the resources sector (mining, oil and gas), manufacturing, maritime, professional services and banking. Olga has a practical and commercial approach in assisting her clients.

Olga's experience includes advisory work, presenting training and seminars, representation in dispute resolution and court/tribunal proceedings, investigations and audits, and document management.

Olga completed a Bachelor of Laws and a Bachelor of Arts, both with honours, from the University of Western Australia in 2005.

In 2006, Olga worked as an associate to the Honourable Justice McLure of the Western Australian Court of Appeal, who is now the president of the Court of Appeal.

Olga worked in London and travelled in 2007, before commencing her current role in September 2007.

Olga is currently studying her Master's of Employee and Labour Relations Law at the University of Melbourne, which has included units in safety law.

She is admitted to practice in the Supreme Courts of Western Australia and the Federal and High Courts of Australia, and has appeared as counsel in the Western Australian Supreme, District and Magistrates Courts, the Federal Magistrate's Court and Fair Work Australia.



**Tristan Casey DPsy(org), BPsycSc****Sentis**

Tristan Casey is an experienced and skilled research analyst at Sentis. His primary research interests include safety climate, safety leadership, human factors, training transfer and evaluation, human-computer interaction, and survey-based research methods. Tristan is passionate about synthesising and translating empirical state-of-the-art research into practical applications, such as the development of evidence-based innovative products and services. Tristan also has a particular interest in developing research instruments to identify strengths and diagnose challenges within organisations and teams. At Sentis, Tristan has developed numerous research-based tools and offerings such as the Safety Leadership Assessment and the Safety Climate Survey, and acted as lead researcher on numerous large-scale research projects across oil and gas, mining, and utilities industries. As a co-investigator, Tristan is currently progressing applied research programs in error management and safety training transfer. The objectives of these programs are to develop and evaluate evidence-based tools to increase worker safety and contribute to both practical and empirical understanding of these emerging areas in occupational safety management. Tristan has presented his research at numerous psychology conferences throughout Australia (e.g., International Congress of Applied Psychology, Australian Psychological Society, Industrial and Organisational Psychology) and published his research findings in peer-reviewed journals (e.g., *Safety Science* and *Computers in Human Behavior*).

**Sarina M. Maneotis, MS****Sentis**

Sarina (Sari) Maneotis is a member of the Research Team at Sentis. She supports the analysis and reporting of Sentis' safety climate surveys and safety leadership assessments. In her role, Sari also develops and validates leadership and well-being assessments. Recently, Sari contributed to the development of Sentis' 360-degree executive leadership assessment as well as Sentis' well-being climate survey used to diagnose employees' wellbeing challenges at work. Sari also serves as the lead researcher for intervention efficacy studies conducted in partnership with Sentis' North American clients.

Prior to joining Sentis, Sari was a research team member for a project on creativity and leadership that was funded by a grant from the National Science Foundation. She has also consulted on various employee selection, performance appraisal, and employee survey projects whilst completing her master's degree in Industrial/Organizational Psychology at Pennsylvania State University. In addition to her focus on leadership and wellbeing at Sentis, Sari has conducted research on emotion regulation