

Professional Practice: Whistleblowing

The Impact on Personal, Professional and Corporate Life

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It is safe to assume that most businesses today have acted illegally or unethical within their company. These actions are usually committed to advance the wellbeing of the company. When such actions occur, the employees have the right to confront these issues through an action known as “whistleblowing”. This paper will focus on the impact of whistleblowing on personal, professional and corporate life. This will be accomplished by discussing the basics of whistleblowing (what, how, retaliation/protection, and impacts), various cases describing the impact of whistleblowing, and improvements that companies can make in their own system. To begin, let’s look at the basics of whistleblowing.

According to West’s Encyclopedia of American Law, whistleblowing is “the disclosure by a person, usually an employee in a government agency or private enterprise, to the public or those in authority, of mismanagement, corruption, illegality, or some other wrongdoing.” [1]. The kinds of illegal and unethical activities can be witnessed by the individual or could be made aware by an additional party. It is important to note that the individual should be fully aware that the unethical activities are true before blowing the whistle. When you are considered a whistleblower, you have to make sure you stand behind it. This being said, the illegal and unethical activity is truly wrong in your best judgment. This is due to consequences that might arise from exposing a company. The company may choose to respond to the report by a form of retaliation for blowing the whistle; this will be covered later. Let’s move on to the various ways to report a wrongdoing.

There are three common ways to “blow the whistle” as a federal employee when reporting a wrongdoing. They are reporting the issue to a supervisor, the Inspector General’s Office, and the Office of Special Counsel. Each of these ways has their advantages and disadvantages. First, reporting to the supervisor is the quickest and easiest. The employee simply

reports to the supervisor in charge, when doing so it may not even feel like he or she is whistleblowing. This allows for all confidentiality to be lost. This may result in retaliation for making the issue known. The second type of report is to the Inspector General's Office. This is essentially a step up from reporting to a supervisor. It doesn't guarantee that confidentiality will fully be protected since the office usually works with the employer and has a relationship. The office may or may not investigate the report. If the employee who made the allegations experiences forms of retaliation, he or she may submit a claim under the Whistleblower Protection Act and receive remedies (This will be discussed later). The third way of reporting is to report to the Office of Special Counsel (OSC). The OSC "is an independent federal agency that interprets, investigates, and prosecutes cases of prohibited personnel practices brought by government employees." [2]. The OSC also offers a confidential "Whistleblower Disclosure Hotline" and accepts disclosures via mail. If the OSC decides to investigate, they first reach out to the employer regarding the disclosed information. When the employer responds to the discloser, the report is then sent by OSC to the President, Congress and Comptroller General. If the OSC chooses not to investigate, they will return an explanation to the reporter of why they chose not to investigate the allegations. The OSC must also give advice on other locations to disclose the information. Lastly, if the OSC finds no wrongdoing in the allegations and the employee is retaliated against, he or she can file a claim under the Whistleblower Protection Act. It is clearly evident that reporting a wrongdoing to the OSC offers a whistleblower the ultimate protection. [2]

When filing a wrongdoing as an employee, retaliation against you is one of the biggest fears. Retaliation can be defined as when an employer bullies an employee for exposing them for taking part in illegal or unethical activities. Retaliation can be very subtle or very extreme.

Examples of retaliation can be such as termination, demotion, lack of civility, increased surveillance, poor performance review, etc. Some might ask when will they know an employer is retaliating against them? The retaliation would most likely occur soon after the wrongdoing is filed. If retaliation is suspected, the employee can reach out to their personal supervisor or their Human Resources department to see why these actions are taking place. If no clear answer is obtained, the employee should file a charge with the Equal Employment Opportunity Commission (EEOC) to protect him or herself. Along with the EEOC, the Occupational Safety and Health Administration (OSHA) offers protection to whistleblowers. [3]

The OSH Act of 1970 designed Section 11(c) to protect whistleblowers when they feel as though they are being retaliated against by their employers for making a workplace issue known to government officials, such as safety and health. OSHA allows for complaints to be submitted within 30 days of the incident to be considered for review. [4] OSHA covers many different types of employees. For example, The Sarbanes – Oxley (SOX) Act was created to protect “employees of publicly traded companies who report violations of Securities and Exchange Commission regulations or any provision of federal law relating to fraud against the shareholders.” [5]. Let’s take a look at the OSHA in action. A manager of Wells Fargo Bank N.A. in San Francisco was suddenly dismissed from the company. The manager was dismissed for reporting separate incidents of suspected bank, mail and wire fraud. These illegal and unethical activities were done by two bankers under his management. Wells Fargo gave the manager 90 days to find a new job within the company. The manager was unsuccessful and was terminated. This is seen as an act of retaliation by not hiring the whistleblower back into the company. This also took a toll on the manager’s professional life; he/she wasn’t able to find employment in the banking industry since the termination. The manger filed with OSHA and his

whistleblower rights were honored under the SOX Act. The manager won the case and under OSHA, Wells Fargo had to reinstate the manager's position and honor his seniority status. Along with the reinstatement, Wells Fargo had to fully compensate him for all he had lost since he has been out of employment. The compensation is fully financial and includes back pay, compensatory damages and attorneys' fees. The overall estimated compensation was approximately \$5.4 million. When executing rights under the OSA, remedies are honored to the employee if the filed complaint is passed. [6]

Now with a background on whistleblowing, let's look at the impacts it can cause on personal, professional and corporate life. Whistleblowing comes with many pros and cons that can impact both the employee and employer. Let's first look at the impact of whistleblowing on professional life; this will give a better understanding of the impacts on personal life. The impact on professional life includes both negatives and positives. The negatives include potential retaliation such as mistreatment, demotion, lack of civility in relationships with colleagues, and increased surveillance. Also, the individual may be labeled which could potential set back him or her from future career opportunities. The positives include laws to protect an individual from retaliation, benefit employees by creating a safer work environment, awards, serving as a model for others and protecting society by making illegal/unethical activities known. [7] [8]

Impacts on a personal life come about through the impacts on professional life. Once an individual blows the whistle, he or she feels like it is the correct thing to do based on their morals. Therefore, the positives of whistleblowing include knowing it is the ethically correct decision. It increases family relationships because the family members will stand behind and support the whistleblower for making the morally correct decision. Lastly, it is allowing the individual to protect others health and safety (colleagues and society). The negatives of

whistleblowing are very unforgiving. First, it puts a large financial strain on the individual due to court fees and unemployment. Along with this burden, the stress level of the whistleblower will rise if he or she is still employed at the corporation. This will cause symptoms such as anxiety, insomnia and headaches. These two cons can also put a strain on the individual's relationship with family members. [7] [8]

Looking at whistleblowing on the corporate side of the spectrum still has its positive and negative impacts. The biggest negative impact of having a whistleblower in a corporation is mistrust. This shows that the employer isn't completely honest with their employees and may lead to the employees questioning policies within the corporation. This may result in employees quitting their job with the corporation. The last negative impact is the company's reputation becoming tainted. A positive impact of having a whistleblowing incident in a corporation would be an increase in safety and health policies. This will allow for the employees to feel more secure because their job supports ethical behavior. [7] [9]

After discussing the impacts of whistleblowing on professional, personal and corporate life let's look at some cases that depict the impacts. Keep in mind that professional and personal impacts are somewhat related. The first case is Brown & Williamson (B&W) vs. Jeffery Wigand. In 1995-1996 Wigand, a tobacco researcher, blew the whistle on B&W for lying to the public about the health and safety of smoking. Wigand reveled the true dangers of smoking such as addicting and death. He explained how B&W were not interested in selling cigarettes, but were rather more interested in getting users addicted to nicotine. This is so they could deliver "fixes" of nicotine to their customers. They attempted to enhance the effects of smoking so they added dangerous additives such as ammonia to get the users even more addicted. The added ammonia allows for the nicotine to be more rapidly absorbed into the body. Wigand was nervous to blow

the whistle due to retaliation and the financial burdens of court. He fought the system and through protection acts he was safe. This was the first time the tobacco industry lost in court. Due to the very stressful situation Wigand was placed in, it strained his relationship with his wife, which ended in a divorce. His daughters “love” him for what he did by going public because he would rather fight against the tobacco industry instead of fighting for it. Also, working for the tobacco industry rewarded him \$300,000 a year while working against it he makes \$60,000 a year. Financially this is a big difference, but Wigand is happy with the decision he made to blow the whistle. He states, “I don’t think I’ve been this happy in a long time...Every day, I know I’ve [did] something that makes a difference for another human being. And that makes you feel good.” [10]

Comparing the case of B&W vs. Wigand, many impacts of whistleblowing on professional and personal life are seen. On the professional side, many positive impacts were made. Wigand didn’t care if he was going to be “labeled”, he knew that professionally it was his responsibility to protect the public by blowing the whistle. He wanted the public to know the dangers of smoking and the lies that the tobacco industries were hiding to make profit. He knew professionally he would be protected by whistleblower protection acts. Along with these professional life impacts, he suffered personally. The relationship with his spouse was strained causing a divorce. Along with losing his wife, his annual income was significantly reduced. With these negative impacts came positive impacts on his life. He personally gained a stronger relationship with his daughters and he also felt good about himself doing what is morally and ethically right. With professional impacts, personal impacts occur.

Let us take a look at another case that more so focuses on how poorly the employer acted. This case displays the impacts of whistleblowing on personal, professional and corporate life. In

2003, Courtland Kelley blew the whistle against General Motors (GM) for faulty ignition switches in the Chevy Cobalt. Kelley was the head of the nationwide inspection program in the corporation and then the quality manager for the Chevy Cavalier (the Cobalt's predecessor). Kelley found the issue with the ignition switch on the Cobalt and took this issue to his supervisors. The supervisors weren't interested in losing money so they tried to silence Kelley's actions which is seen in this eerie conversation:

Kelley: "I felt morally responsible—"

GM: "That's not what I asked you."

Kelley: "—to fix a problem that I found in a vehicle."

GM: "Was it part of your job description?"

Kelley: "No." [11]

This resulted in the production and manufacturing of dangerous vehicles which risked the health of the customers.

Prior to the case in 2003, Kelley threatened to take the issue at hand to the National Traffic Safety Administration. GM swept everything under the rug and ignored Kelley. This resulted in Kelley suing GM in 2002. GM denied any wrongdoing and got away with it. After the case, Kelley was retaliated against and was repositioned in the company. This incident showed how management discouraged employees to speak out about safety. This is clearly seen above in the conversation between GM and Kelley. During this time, 15 other employees were driven from the company. In the long run, Kelley remained in the company and the case grew very stressful for him. He became very depressed due to not being able to protect the public. The stress of the case caused Kelley to age visually very quickly. His neighbor, who is a doctor, pointed this out by the wrinkles on his face and how his hair became white. In the end, Kelley

spent over \$20,000 on the case and got nowhere. GM didn't fix the faulty ignition switches when producing the car, but rather placed a recall on the switches after a deadly crash in 2006. [11]

This whistle blowing case impacted personal, professional and corporate life. On the personal and professional level, retaliation occurred. This is seen when Kelley is repositioned within the company and is silenced when discussing safety issues. Second, the case was a financial burden on Kelley spending over \$20,000. Third, the case added a lot of stress in Kelley's life; he aged physically which was depicted by his neighbor (a doctor). Last, Kelley attempted to protect the public from the dangers of the Cobalt, but he was silenced. The corporate life was impacted in two ways. First, there was mistrust between the employees and the employer. GM wanted to keep their employees silent when safety issues came about. This caused GM to push out several employees. Second, the company's reputation was tainted. GM decided to not fix the issue at hand until a deadly accident occurred. This case displays how the employer can poorly handle a whistleblowing situation. The professional, personal and corporate lives were all negatively impacted.

To avoid negative impacts due to whistleblowing, whistleblowing policies should be created and abided by in industry. There are three sides to the increase in whistleblowing policies: legal, practical and ethical. On the legal side, this will allow for increased protection for federal employees who blow the whistle. Secondly, it will increase the number of state whistleblower protection laws. This essentially means that those who work in public and private sectors will be protected. [9]

Looking at the practical side of increasing whistleblowing policies there are four advantages. First is the "inevitability of wrongdoing" which shows how a company without a policy believes that they live in a perfect world without any wrongdoing. Ethical dilemmas

always come about, having a policy in place shows that a company is willing to take responsibility if ethical issues occur. Therefore, this allows for the company to be prepared. Second is “the likelihood of increased whistleblowing”, this displays how a company supports their employees and want to correct wrongdoings. Third, there is “the ineffectiveness of retaliation”. This shows that if policies are in place retaliation is not needed. If it does come about it will cost the company due to court fees. Lastly is “the potential for internal resolution”. This is important because instead of letting a wrongdoing reach the public and taint the company’s reputation, the issue could be corrected internally. The practical advantages of have a proper whistleblowing policy benefits the company in the long run. [9]

The ethical side of increasing whistleblowing policies in corporation benefits the corporation, employees and society. First, there is “the potential for improving the ethical climate”. This essentially means that ethics would be abided by within industry, which would protect the company, the employees and the public. Secondly, “the need for fairness” would increase. The employees would feel more comfortable within a company who abides by laws, both federal and ethical. This will allow the employees to feel more comfortable about blowing the whistle to someone within the corporation. This ultimately would benefit the company because like previously mentioned the issue could be corrected internally. [9]

Tying everything together, whistleblowing is very important within industry. It can be done several ways depending if the one blowing the whistle is a federal employee or a private employee. Before blowing the whistle, one must make sure the issue is completely true and he or she must weigh the impacts. Retaliation may occur but there are several protection acts to protect an individual. When blowing the whistle, professional, personal and corporate life are impacted both positively and negatively. This is seen through various case examples. Lastly, if a

corporation decides to create and abide by a whistleblowing policy, they will benefit in the long run. This is seen by creating fairness and trust within their company.

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