

Whistleblowing Impacts and Policies

James Roche

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Dr. Robert A. Spalletta

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Most organizations, whether small or large in size, have some sort of illegal activity occurring within them. When these activities or practices are brought about by someone whistleblowing, there are major impacts that arise not only for the whistleblower, but also for the organization as a whole and its workers. The focus of this paper is to describe what the impact of whistleblowing has on personal, professional, and corporate life through the use of real life examples of whistleblowers. Now, to have a better understanding of why whistleblowing concerns many organizations, the concept of what a whistleblower is must be looked at.

A whistleblower is defined as an employer, supplier, contractor, client, or any individual who becomes aware of some sort of illegal activity taking place in a business such as mismanagement, fraud, or substantial danger to public health and safety and reports this knowledge. Now, how this person becomes aware of the activity can be either by witnessing it or by learning about it secondhand. In whistleblowing, the whistleblower has the choice to pass his or her knowledge of illegal activity to one of three people or offices. The whistleblower can report to a supervisor, an Inspector General, or the Office of Special Counsel. But, in reporting this knowledge, there are some aspects the whistleblower may want to look at before deciding whom to report to, as each of the three take action in different ways and have different benefits and advantages. (Workplace Fairness, What Is a Whistleblower?)

Weighing the pros and cons before making any decision is key to making the right decision in the long run, and this is no different for whistleblowers. The main question a whistleblower must ask is with regards to possible consequences for whistleblowing and how to protect him or herself if retaliation does occur. Now, the benefits and advantages for each party who can be reported to if whistleblowing occurs will be stated. In reporting to a supervisor, generally the most common form of whistleblowing, the blower may not even view themselves

as actually blowing the whistle but rather as alerting a company as to what's going on as perhaps a wake-up call. With regards to reporting to a supervisor, a whistleblower may suffer consequences and, if this does happen, it is up to the whistleblower to investigate their right to protection. For reporting to the Inspector General, confidentiality will not be guaranteed, as there is an interrelationship between the Inspector General's office and agency management. In addition, the Inspector General may not even investigate the allegation(s) presented. If the Inspector General decides not to investigate the allegation(s), the whistleblower still retains a protected status and, if retaliation occurs for disclosing information, a right also exists to pursue a remedy. The third and final party to report to, and perhaps the best overall, is the Office of Special Counsel. The Office of Special Counsel is an independent federal agency, which investigates and prosecutes cases of prohibited practices done by government employees and the benefits of disclosing to the Office are more beneficial than disclosing to a supervisor or Inspector General. (Whistleblower Rights, Whistleblower Protection Program)

The benefits of disclosing to the Office of Special Counsel are vast compared to the two aforementioned parties. These benefits are that the Office operates a confidential Whistleblower Disclosure Hotline; confidentiality is protected by law; they can order an agency to investigate and report on the disclosed information and once the agency reports back the Office must send the report to the President, Congress, and Comptroller General. Though the benefits are much greater for the Office than they are with a supervisor or Inspector General, the cons are still present in that one may be retaliated against, but they will still have the opportunity to pursue a whistleblower claim. So, with having mentioned retaliation being possible for whistleblowing the focus will now shift to what constitutes retaliation and how a whistleblower may pursue a

retaliation case in the situation of being retaliated against. (Whistleblower Rights, Whistleblower Protection Program)

Retaliation is something that is done often in spite by someone when a secret becomes exposed or something occurs, due to the cause of another party, which embarrasses or stains the image of the so-called victim. The same idea holds true for employers, employment agencies, or labor organizations that take adverse action against an individual who is covered (in this case a whistleblower) because he or she engaged in a protected activity (whistleblowing). Now an adverse action is not simply something such as negative comments in an evaluation or negative comments justified by an employee's poor work performance, but rather it is defined as an action taken to try to keep someone from opposing a discriminatory practice. Examples of these retaliation actions involve termination, denial of promotion, threats, increased surveillance, or unfounded civil or criminal charges likely to deter a pursuit of rights. These retaliatory adverse actions are only unlawful if the individual retaliated against is considered covered. This means that the individual who opposed an unlawful practice, as well as someone close to the individual engaged in a protected activity, are deemed covered individuals. Lastly, in order for an action to be considered retaliation, the individual, along with being covered, must have engaged in a protected activity defined as an opposition to a practice believed to be unlawful, such as whistleblowing. If retaliation does occur, the whistleblower has an opportunity to seek protection with the assistance of acts set forth throughout the years. (Facts About Retaliation)

The Occupational Safety and Health Administration (OSHA) has administered whistleblower protection or provisions of seventeen statutes in the case of retaliation occurring. The act most commonly used by whistleblowers is the Occupational Safety and Health Act of 1970 (OSH), which declares that employees may file complaints with OSHA if they believe they

have been retaliated against for informing any government agency of workplace safety or health hazards. Now an example of this act being used comes about from the case of a San Diego man. This man, in 2007, was an employee of an Alaska-based contractor, Bering Sea Eccotech, and had blown his whistle by expressing safety concerns via email to upper management after he observed multiple dangerous on-the-job explosions. Not long after expressing his concerns, he was laid off and was forbidden from being reinstated into his former company. So, as a result, he filed a complaint deeming that his employer had retaliated against his whistleblowing, which is considered a violation of the aforementioned OSH Act. Upon being received OSHA investigated the complaint to determine if it had merit in order to be able to take action. In their investigation OSHA did determine the complaint had merit and notified Bering Sea Eccotech, who refused to reinstate this worker to the same position and also refused to back wages and other employer benefits. Now, about two years later in 2009, OSHA filed a whistleblower suit on behalf of Bering Sea Eccotech's former employee. What this suit did was reinstate the employee along with securing compensatory damages and lost wages and it also required the employer to post a notice that explains employee rights under the OSH Act. Now, the focus will shift to impacts of whistleblowing on a personal and corporate level. (U.S. Department of Labor Files Whistleblower Suit)

Whistleblowing can have multiple impacts, both positive and negative, on a personal level beginning with the positive impacts. The first benefit that can result from being a whistleblower is that, after a retaliation case had been won against an employer, one may become an influence for other people who may have originally been afraid to speak up. A second benefit that may come about is that bonds may strengthen with friends and family members. It has been noted that a majority of employees only blow the whistle when they have full support

from either their spouse or family members. Whistleblowing brings about long lawsuits and if family or close friends attend legal meetings and make decisions together as a team, their bond will strengthen. The final benefit that can come about from whistleblowing is twofold in that by engaging in the act, one can change policies that benefit employees and other individuals, and supporting this importance is the law. Legislators have written laws to solely encourage whistleblowing, reward it financially, and punish anyone who tries to stop it. To reiterate how whistleblowing can benefit others a case brought up in 1996 can be looked at. This case, created by a tobacco researcher by the name of Jeffrey Wigand, revolved around the Brown and Williamson Tobacco Corporation knowing that tobacco was addictive. The result of this case had a very positive effect on society at the time and was a change in public policy and public perceptions of the tobacco industry in general. With any good that arises, there also comes some bad and this is no different for whistleblowing. (Donohue, 5 Rewards -- and Drawbacks -- of Being a Whistleblower)

As with any case of “weeding” someone out and exposing their wrongdoings, it will most likely lead to a negative effect on the doer. For whistleblowing, a common negative impact is the stress endured by the employee still remaining at his or her place of employment. This is a result of the law that makes it illegal for a company to fire someone for engaging in the act of whistleblowing. Though they are not allowed to be fired and will still have a job, they can still experience severe symptoms of anxiety, headaches, and even insomnia. Additionally, they may be closely supervised and alienated from other employees, or as mentioned previously, they could be retaliated against and be put through long lawsuits, eventually taking a mental toll on their well-being. An additional effect that can arise, though it is not seen very often anymore due to the laws set forth to protect whistleblowing, is termination. Patricia Patrick, in her study of a

random sample (380) of lawsuits of whistleblowers ranging from the years 1994 to 2009, found that 74 percent of these whistleblowers' were fired from their job even though it may have been illegal to do so. She also found that six percent were suspended, five percent were transferred regardless of whether they wanted to be or not, and the final 15 percent were the subjects of maltreatment as they were either given poor evaluations, demoted, or harassed. A last impact whistleblowing can have on personal life and well-being is something that happened to a famous whistleblower by the name of Cynthia Cooper. (Alvarez, Donahue, Patrick)

Cynthia Cooper was the key whistleblower in WorldCom's \$3.8 billion accounting fraud in 2002, the largest insurance fraud at the time. The illegal business practice WorldCom took part in involved two mid-level managers and the CFO. What happened was that the two mid-level managers were days away from having to release earnings to the public, but they encountered an error in the books they could not resolve. As the deadline approached, the managers experienced increased stress and pressure and decided to ask the CFO who simply told them to simply cover up the error by drawing on excess revenues. In doing this, the CFO said things would be aligned with the expectations of external auditors and analysts and this would give time for the error to eventually reveal itself. Cynthia Cooper, the vice-president at the time, knew of this and with the help of an auditing team, she found enough proof in order to blow her whistle. But doing this did not come without its impacts for her. Whether it was during or afterwards, she claimed that she suffered extreme depression, that all she was able to do was get out of bed and put one foot in front of the other as well as major weight loss. Ethical dilemmas are never an easy task to take on with regards to personal life and they have their benefits and risks as mentioned, but for businesses and corporate impacts, these dilemmas brought up through whistleblowing have their impacts as well. Now whistleblowing does not only have impacts on

the whistleblower's personal life but it also affects the company that was whistleblown against.
(Alvarez)

The sole focus of whistleblowing is to call out any illegal activity happening within a company and this can greatly affect the company itself. A big factor in determining how the companies are affected can be seen by how they combat the case held against them and whether it goes public or not. Firstly, the benefits of how companies can benefit from whistleblowing will be stated. The way a company can benefit from this type of action is by can enhancing corporate social responsibility and, most importantly, it can decrease the overall exposure to risk in a workplace as well as preventing future injuries that may have come about from an unsafe practice. Although the benefits may be few, they can be ultimately lifesaving in the long run but the drawbacks can severely hinder a company and its successfulness. (Percy)

Feeling comfortable and at ease when working allows for successful results and when a company is whistleblown against, this comfort may dissipate for workers. This can be due to the fact of employees being closely supervised to ensure another case does not arise, and if an employee is closely supervised they may make job related errors that may cost the company money and time. A second consequence whistleblowing can have on a company is mistrust which can arise towards the company through employees becoming suspicious of policies and behaviors set forth. Without trust in an internal system, disaster can strike from within a company by employees quitting and looking for new jobs, which can result in less productivity and income for the company. These are a few consequences, but there are obviously much more and to show examples, the whistleblowing case against General Motors will be viewed.

(Donohue)

One example of a company who handled a case against them poorly was General Motors. What General Motors did was cover-up a serious issue with regards to millions of their vehicles. They failed to disclose information with regards to these vehicles having faulty ignition switches and thus leading to numerous accidents and deaths. The man who had confronted and sued General Motors over this issue was a Courtland Kelley in 2003. Kelley was the head of the inspection and quality assurance program at the company and had found faults in specific vehicles and continuously reported them but heard little in return. This led him to conclude that his supervisors were more interested in keeping their positions and sales steady rather than to deal with expensive recalls to the vehicles. The reason for his suing of General Motors came about due to his allegations that they were slow to address the dangers in its affected vehicles. In retaliation for Kelley whistleblowing, General Motors decided to push him out of his job and this caused a chain-reaction effect in other inspectors at the company fearing for their jobs. So when this issue did come to light a few years later, it became linked to many crashes and fatalities. General Motors blamed the issue of covering-up on problems within the company's culture. The effect this whistleblowing had on them was that their stock had declined, they had to pay a maximum fine of \$35 million to the National Highway Traffic Safety Administration (NHTSA), and that their reputation had become tainted due to the public now holding a massive distrust when regarding any product made by General Motors. Now, there is a way to avoid the negative aspects that may come from whistleblowing for a company and that way is to create a whistleblowing policy. (Becker, Dye)

Effectively managing whistleblowing involves a company building trust with their employees according to Assistant Professor of Management, Tim Barnett. To build this trust, appropriate conditions must be applied. These conditions involve informing the employees about

taking appropriate steps in voicing their ethical concerns internally, having the employees believe their concerns will be looked into and taken seriously, and most importantly for the employee, that they will not suffer repercussions for using internal methods to report actions. Creating a policy should not be done just to avoid severe repercussions, rather it should be done to better the company from within by respecting employee concerns. (Barnett)

The practical benefits in creating a whistleblowing policy in the workplace are ones that will better the company and its employees in the long-term aspect of things. One such aspect involves how wrongdoing is unavoidable, even in the most reputable companies, and what a whistleblowing policy does is allow an employee to report their ethical concerns in a viable manner. Additionally, a policy that may encourage whistleblowing has the likelihood of having employees actually blow their whistles and this can have a good long-term impact. This impact is that if concerns and issues are brought about internally, the company will be able to fix what was wrong and make sure it does not occur again in the future. Lastly, the need for fairness in a workplace is a priority and in having a whistleblowing policy, fairness is brought about. Fairness increases employee comfortability and morale and makes them feel at ease knowing their right to free speech is not violated and that if an accusation arises, they will be treated unbiasedly. Overall, if a business enacts a whistleblowing policy it is beneficial in multiple aspects for both the company and the employees. (Barnett)

In conclusion, whistleblowing can be reported in multiple ways and the choice is ultimately up to the whistleblower who should weigh the pros and cons of each beforehand. The act of whistleblowing may be concerning for some due to consequences but the government has been in the whistleblowers' favor throughout the years by enacting multiple protection acts and has taken action against companies that disregard these laws. How whistleblowing affects a

company relies greatly on how the company responds and whether it had a whistleblower policy in place.

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