

Session 2

Chapter: Whistle Blowing

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INTRODUCTION

Whistle-blowers are generally conscientious people who expose some wrongdoing in their place of work, often at great risk. The term was first applied to government employees who reveal complaints of corruption or mismanagement in the public sector but now it is used in the private sector as well.

Whistle-blowers often pay a high price for their acts of dissent. Employer's retaliation is a common act and can take the form of poor evaluation and demotion, dismissals or even blacklisting the employee who blew the whistle so that they can not find job in the same industry. Many whistle-blowers find themselves suffering from both financial and emotional strain from the job dislocation and as employers; coworkers and friends turn against them.



"First of all, let's find out who blew the whistle on us."

Some philosophical issues regarding the ethical justification of whistle-blowing raise some very interesting questions. Do employees have the right to blow the whistle in the first place? Employees have an obligation to do the work that they are assigned, to be loyal to their employer and generally to work for the interest of the company, not against it. Moreover, they are obliged to preserve the confidentiality of information acquired in the course of their work and whistle-blowing sometimes involves the release of this kind of information. So, do whistle-blowers, acting with the aim to protect the public from the wrongdoing of their organization, run the risk of violating these obligations that they owe as employees to their employers?

Given the high price that whistle-blowers sometimes pay, should people really be encouraged to blow the whistle? Is it the only way or are there any alternative ways? Should they be protected and if so how can this best be done?

WHAT IS WHISTLE-BLOWING?

Whistle-blowing can be defined as the release of information by a member or former member of an organization that is evidence of illegal and/or immoral conduct in the organization or conduct in the organization that is not in the public interest.

There are some points of observation in this definition:

- ***Blowing the whistle can be done only by a member of an organization:*** employees have an obligation to their employer that would be violated by public disclosure. An employee is expected to act in all matters for the well-being of the organization.
- ***There must be information:*** whistle-blowing must necessarily involve the release of *nonpublic information*. Public disagreement with an employer is not in itself blowing the whistle. A distinction can be made between *blowing the whistle* and *sounding the alarm*. Instead of revealing new facts, an employer tries to arouse public concern about information they already know.
- ***There must be evidence of misconduct on the part of an organization or its members:*** some whistle-blowing reveals violation of law while other reveals activities that are legal but contrary to the public interest such as threats to the environment.
- ***The information must be released outside normal channels of communication:*** the majority of corporations have different means that encourage employees to express their concerns. The most common is for employees to report cases of illegal or improper conduct to their immediate

superior. Whistle-blowing does not necessarily involve revealing information outside the organization. There can be two forms of whistle-blowing, *internal* and *external*. In both internal and external whistle-blowing the information must be revealed in ways that can reasonably be expected to bring about a desired change thus a definition of whistle-blowing must also take into account *to whom* the whistle is blown. However, an employee who follows established procedures for reporting wrongdoing is not a whistle-blower.

- ***The release of information must be something that is done voluntarily:*** what must be understood here is that there is a distinction between doing something voluntarily and doing something as required by the law, although it is not always clear.
- ***Whistle-blowing must be taken as a moral protest:*** the motive of whistle-blowing must be to correct some wrong and not to seek revenge or personal advancement. A line must be drawn between the genuine whistle-blower and corporate malcontents and intriguers. Because the motives of whistle-blowers are often misperceived in the organization, employees considering the act must carefully examine their own motivation.

After putting all these points together a more complete definition of whistle-blowing is the following:

Whistle-blowing is the voluntary release of nonpublic information, as a moral protest, by a member or former member of an organization outside the normal channels of communication to an appropriate audience about illegal and/or immoral conduct in the organization or conduct in the organization that is opposed in some significant way to the public interest.

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"Remember the good old days when it was a suggestion box?"

THE JUSTIFICATION OF WHISTLE-BLOWING

Although the ethical justification of whistle-blowing seems obvious in view of the praiseworthy public service that whistle-blowers provide, it has the potential to do great harm to both individuals and organizations.

One argument against the justification of whistle-blowing is that the act has a disruptive effect on bonds of loyalty with the employer. The question rises whether the employment relationship deprive an employee of a right to reveal information about wrongdoing in the organization.

- **The "loyal agent" argument:** as a loyal agent of his or her employer, the employee has a duty to serve his or her employer as the employer wants to be served. An employer would want to be served in whatever ways will advance his/her self-interest, e.g. maximization of profits or the value of the firm. Therefore, as a loyal agent, the employee has a duty to do whatever it takes to advance his employers' interests.

An assumption to this is that there are no limits to the employee's duties to serve the employer when in fact such limits are part of the legal and social institutions from

which these duties arise. The “law of agency” requires loyalty exclusive of the duty to perform acts that are illegal or unethical.

Depending on what we mean by the term “loyalty” the whistle-blower can be defined as loyal or disloyal employee. If loyalty means just following orders then whistle-blowers are disloyal employees but if it means commitment to the true interests or goals of the organization then whistle-blowers are often very loyal employees.

Conditions for justified Whistle-Blowing

When deciding whether to blow the whistle in a specific case there are some questions that must be considered first:

- 1) ***Is the situation of sufficient moral importance to justify whistle-blowing:***
in cases where there is both harm and benefit of blowing the whistle we must ask how serious is the potential harm compared with the benefit and the trouble that would be caused by blowing the whistle. The less serious the harm the less appropriate it is to blow the whistle.
- 2) ***Do you have all the facts and have you properly understood their significance:*** the whistle-blower must have as much documentation as possible as his case can be stronger when the evidence consists of verifiable facts and not merely hunches or rumors.
- 3) ***Have all internal channels and steps short of whistle-blowing been exhausted:*** whistle-blowing should be a last rather than a first resort. Virtually every organization requires employees to take up any matter of concern with an immediate superior before proceeding further-unless that person is part of the problem.
- 4) ***What is the best way to blow the whistle:*** whistle-blowing can be more effective when an employee presents the charge in an objective and responsible manner. Also, it is important that a whistle-blower stick to the important issues and refrain from making personal attacks on the persons involved.
- 5) ***What is my responsibility in view of my role in the organization:*** an employee is more justified in blowing the whistle when the wrongdoing concerns matters of over which the employee has direct responsibility.

- 6) ***What are the chances of success:*** whistle-blowing may be unsuccessful for many reasons but it is important to blow the whistle only when there is a reasonable chance of achieving the good of protecting the public.

IS THERE A RIGHT TO BLOW THE WHISTLE?

Although whistle-blowing can be justified some times the sad fact remains that whistle-blowers are often subjected to harsh retaliation. There are a lot of laws that protect retaliation against employees who blow the whistle both in the public and the private sector. There are though some arguments against the protection of whistle-blowers and some in favor. Such arguments against the protection of whistle-blowers can be that employees might find an excuse to blow the whistle in order to cover up their own incompetence or inadequate performance. One argument in favor of whistle-blowing protection is that there is a direct benefit in having corporate wrongdoings brought to light and this benefit can be achieved only if whistle-blowers are encouraged to come forward and make their information known.

References:

Boatright, John, R., *Ethics and the Conduct of Business*, 5th edition, (Pearson Prentice Hall, New Jersey, 2007), p. 92-113