

Lect. #17: Whistleblowing



Agenda for Today



1. Redux of Ethical Theories in Arguments



2. What is whistleblowing



3. When we should blow the whistle



4. De George's guidelines for whistleblowing

Announcements

- Reminder: Grading rubrics are available in Canvas for the GCS-PM plan, the GCS initial report, and the GCS final report assignments
- Reading these rubrics will increase the likelihood of your team receiving higher grades; for the reports, emphasis differs, e.g., use of IEEE template and references weighted more heavily in initial report
- My Zoom office hour today will be shortened to the first half hour, 5:00-5:30 pm

Arguments: Using Ethical Theories in Arguments (redux)

- The ethical theories we studied include *normative* assertions that can be used to strengthen an argument from an ethical point of view.
- Ethical theories can assist in establishing the validity of an argument.
- When using an ethical theory in a structured argument, include a premise stating something to the effect that “~~only~~ actions that are consistent with <ethical theory> should generally be taken.”

Arguments: Example Using Rule Deontology (redux)

PREMISE 1: Rule Deontology requires employers to treat their employees as rational beings (it's their duty to do so).

PREMISE 2: In order to treat employees as rational beings, they must be informed that they are being monitored (universality).

PREMISE 3: Monitoring employees has been shown to help employees increase their productivity (impartiality).

PREMISE 4: Employers should only take actions that (a) are typically consistent with Rule Deontology and (b) help increase employee productivity.

CONCLUSION: Employers should monitor their employees and inform them that they are being monitored.

POLL

Was Snowden right to blow the whistle?

A. Yes

B. No

C. I don't know

D. Other

Whistleblowing: Definition

“the voluntary release of nonpublic information, as a *moral* protest, by a member or former member of an organization ... to an appropriate audience about illegal and/or immoral conduct in the organization that is *opposed in some significant way to the public interest*”

—Boatright, 2000

Whistleblowing: When to Blow the Whistle

- Inherently problematic because it presents conflict between loyalty to employer and obligation to the public, especially when health and safety considerations are concerned
- Regardless of loyalty, we must blow the whistle if not doing so would lead to a lot of harm
- Apply De George's guidelines to determine whether we are *morally permitted* to blow the whistle and, if so, whether we are also *morally obligated*

Whistleblowing: De George's Guidelines, 1999

Morally Permitted

If the following three conditions are satisfied, we are *morally permitted* to blow the whistle:

1. The product will do “serious and considerable harm” to the public.
2. We have reported the “serious threat” to our immediate supervisor and have made our “moral concern known.”
3. We have exhausted the “internal procedures and possibilities” within our organization, including going to the board of directors or a similar group if necessary.

Whistleblowing: De George's Guidelines, 1999

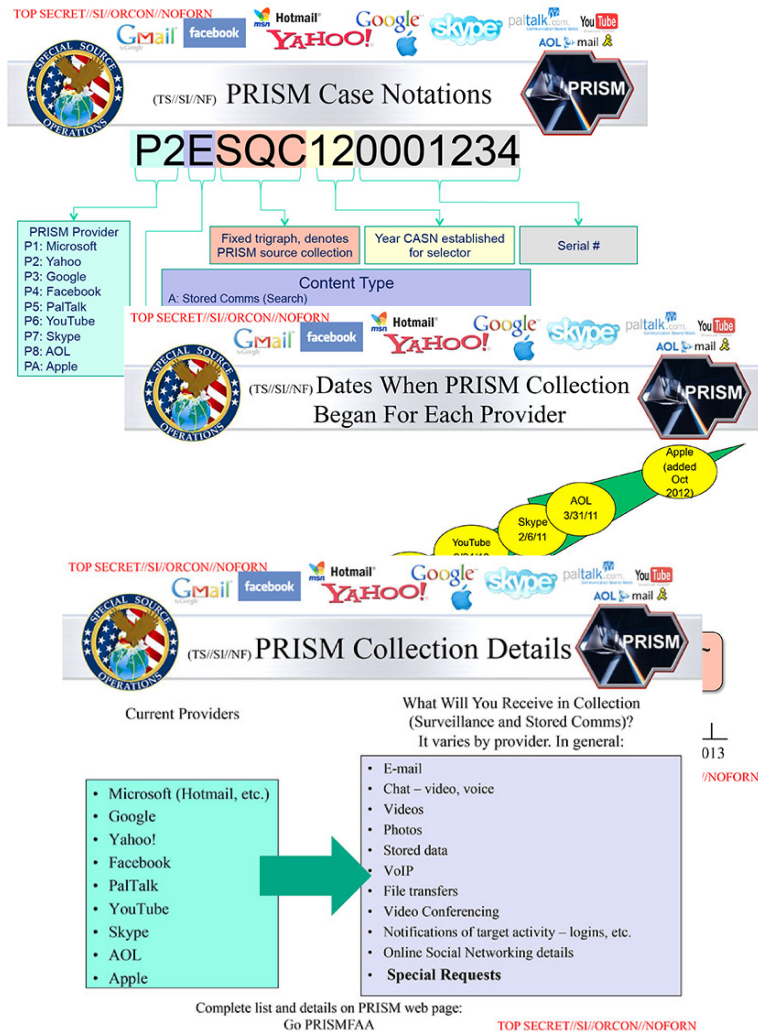
Morally Obligated

If the following two conditions are **also** satisfied, we are ***morally obligated*** to blow the whistle:

4. We have “accessible, documented evidence that would convince a reasonable and impartial observer that” our view of the situation is correct.
5. We have “good reasons to believe that by going public the necessary changes will be brought about.”

Whistleblowing: Application of De George's Guidelines

Case Study: Edward Snowden and PRISM



- In June 2013, Edward Snowden leaked classified documents on the global surveillance program PRISM
- Documents showed NSA had collected phone and internet records of tens of millions of Americans
- Snowden charged with three felonies: theft of government property and two counts of violating the Espionage Act
- Snowden claimed NSA had backdoor access to internet company servers
- Snowden granted asylum in Russia
- Snowden published memoir, Permanent Record, in 2019
- On Sep. 2, 2020, Federal Court ruled PRISM was illegal and possibly unconstitutional

Breakout Discussion (10 min)

- Use De George's guidelines to determine whether Snowden was **morally permitted** to leak NSA's documents on the PRISM program and, if so, whether he was **morally obligated** to do so
 1. The product will do "serious and considerable harm" to the public.
 2. We have reported the "serious threat" to our immediate supervisor and have made our "moral concern known."
 3. We have exhausted the "internal procedures and possibilities" within our organization, including going to the board of directors or a similar group if necessary.
 4. We have "accessible, documented evidence that would convince a reasonable and impartial observer that" our view of the situation is correct.
 5. We have "good reasons to believe that by going public the necessary changes will be brought about."
- Choose someone to present your decisions

Whistleblowing: Application of De George's Guidelines

Case Study: Edward Snowden and PRISM

Conditions for moral permission:

1. (PRISM) does “serious and considerable harm” to the public.
2. (Snowden) reported the “serious threat” to immediate supervisor and made “moral concern known.”
3. (Snowden) exhausted the “internal procedures and possibilities” within the organization.

Additional conditions for moral obligation:

4. (Snowden) had “accessible, documented evidence that would convince a reasonable and impartial observer of the situation.
5. (Snowden) had good reason to believe that by going public the necessary changes would be brought about.

Poll

Do you think Snowden will be pardoned at some point in the future?

A. Yes

B. No

C. Other

Whistleblowing: Application of De George's Guidelines

Bret McDanel and Tornado

While working for Tornado Development, Inc., on web-based email and voicemail systems, Bret McDanel noticed that their software displayed a user's login credentials as part of the URL shown in the web browser's address bar. Not only did this mean that their credentials could be observed by passersby, but it also meant that the next website the user visited could capture his or her login credentials in its log of the "referring" URL. Thus, anyone who was authorized to read the second website's logs could use that login and password to access the user's account.

McDanel brought the flaw to the attention of the company, but it wasn't fixed. After leaving Tornado, he sent an anonymous email message to ~5,600 of its customers, describing the flaw and directing them to a website where he provided more information. Tornado shut down their computers and tried to remove McDanel's email from its customer accounts. Eventually they fixed the problem, but they also went to federal prosecutors who charged McDanel with violating the Computer Fraud and Abuse Act, an act used to prosecute virus- and worm-writers. They argued that McDanel had damaged Tornado's computer system by slowing down its email server. McDanel was convicted and spent 16 months in prison. The case came to the attention of faculty at the Stanford Law School Center for the Internet and Society, and its executive director appealed to the government on McDanel's behalf. Not only did the federal prosecutors agree, but they asked the appeals court to set aside the conviction, which it eventually did.

supreme.findlaw.com/legal-commentary/the-federal-governments-strange-cyber-defamation-case-against-bret-mcdanel.html

Whistleblowing: Application of De George's Guidelines

Bret McDanel and Tornado

Morally permitted:

1. Yes, serious harm could have been done to at least 5,600 customers
2. Yes, reported to boss
3. Presumably yes because he quit his job

Morally obligated:

4. Yes, he gave details on website
5. Yes, Tornado fixed the problem

Whistleblowing justified, but was it done in an ethical manner? How would you have done it differently?

Poll

It has been suggested that McDanel's conviction was not only unwarranted, but his first amendment rights were violated (given that his email account at Tornado was legitimate, and the message he sent was true). Do you agree?

A. Yes

B. No

C. Other