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When whistleblowers go to the media: analysis of how journalists report whistleblower's stories

A case study: how the *Time Magazine*
related the story of the Sandia attacks
revealed by Shawn Carpenter

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Whistleblowing is defined in many ways, the emphasis is often put on different angles of the practice. It is seen as « raising a concern about malpractice within an organisation or through an independent structure associated with it (UK Committee on Standards in Public Life), giving information (usually to the authorities) about illegal or underhand practices (Chambers Dictionary), exposing to the press a malpractice or cover-up in a business or government office (US Brewers Dictionary)⁹⁴. » In this article, specific attention will be paid to the latter definition which insists on the link between a journalist and an employee-whistleblower. We will discover why such a person would go the media and how this relation transpires through a press article.

The term whistleblower appeared in the years 1970 concerned the employee who considered that public interest was more important than the interest of the organisation for which he worked. In this sense, this concept is opposed to “the organisation man” theory developed by Wytte⁹⁵. This practice emerged in an environment of general contestation. In 2008, an annual barometer on trust based on an analysis of 18 states showed that only 30% of French people were confident in organisations. This percentage is the lowest of all the states analyzed: 45% of British were confident in organisations, 49% in Spain and 57% in the US⁹⁶. But this rupture in confidence does not only come from the external environment, it also comes from within the organisation itself. This internal detachment is due to the fact that employees no longer see themselves as permanent figures within their companies. This is mostly

⁹⁴ DEHN Guy, *Whistleblowing & integrity : a new perspective*, Public concern at work, available on <http://www.cfoi.org.uk/pdf/corruptiongd.pdf>, consulted on 8/11/2009, p.1.

⁹⁵ For further information on this notion, see WYTE William, *The organization man*, New York, Ancor Books, 1957.

⁹⁶ LIBAERT Thierry, *Communiquer dans un monde incertain*, Paris, Pearson Education France, 2008, p.21.

visible in the young working population. For this group, the current tendency is to place more importance on their private lives, their jobs and organisations coming afterwards.

It is in this context, that the famous Sarbanes-Oxley law (SOX) emerged in the USA in July 2002. This legislation follows financial scandals such as Enron, WorldCom or Andersen. The objective of this law is to assist employees denounce fraudulent or suspicious accounting or financial practices taking place within their organisation. This law applies both to American or foreign companies registered on the American stock exchange but also on quoted American companies located in other countries. In a way, this law helps to restore a certain confidence in the organisation. But this new practice redefines what is acceptable and what is not in a company's organisation and affairs. In a more sociological view, the boundaries illustrate how tolerance is conceived in a certain organisation, culture or country. This is why this law was not readily adopted in Europe. The whistleblower concept created much controversy in Europe as some defended the idea saying it is a way of breaking the silence in organisations, others saw it as a way of creating a debate under the cover of ethics. At first, CNIL (Commission nationale de l'informatique et des libertés) in France supported this line putting forward that « à partir du moment où des salariés donnent des éléments sur d'autres salariés sans que ces derniers soient informés, c'est de la collecte déloyale d'informations⁹⁷. » They thought these measures would prompt more slanderous denunciations. But *Transparence International France* considered it as an important resource which would assist in the battle against corruption. We can see that the contestation is not only centred on the organisation or the employee-whistleblower but also on the practice that is supposed to bring them out in the open. This is also due to the fact that the French translations of the term, *dénonciateur* or *délation* are historically connoted as they refer to the context of the Second World War and the collaboration during this period. However the meaning of the concept has evolved from a negative to an ethical angle. At first it insisted mainly on the negative side of the term. Now, we come across the terminology of *lanceur d'alerte éthique* which uncovers not only the fraudulent practices of an organisation but all practices that can be potentially dangerous for people or the environment. Through this development we can sense an influence of Corporate Social Responsibility. The whistleblower is not only the employee but can be extended to "environmental crusaders" who detect problems that can affect the environment or the population in general.

⁹⁷ D'ALMEIDA Nicole, *La société du jugement. Essai sur les nouveaux pouvoirs de l'opinion*, Paris, Armand Colin, 2007, p.84.

A whistleblowing culture

It is important for the organisation to have a positive attitude towards whistleblowers. They should be taken as witnesses of a problem not as troublemakers. Most people are afraid of making suspicious practices known as whistleblowing is not always seen as a positive course of action and can be a risky practice. Whistleblowers are often confronted with layoffs, remarks and isolation from their colleagues, even blacklisting from the entire industry. « Individuals who are found to have breached secrecy agreements risk legal action, even when there is a demonstrated public benefit from disclosure » (Brown 2007)⁹⁸. Berry distinguishes seven dimensions that should be present in a whistleblowing culture: vigilance, engagement, credibility, accountability, empowerment, courage and options⁹⁹. Identification is also an important part and influences the engagement dimension. « Employees who identify with the organization are more likely to engage in internal communication and reporting when they observe organizational misconduct »¹⁰⁰.

In certain countries, particularly the US, the employee can face a personal dilemma. On the one hand, following SOX, he has to denounce fraudulent activities otherwise he may quite likely be sanctioned. On the other hand, he runs the risk of being laid off if he denounces it. The best solution is to integrate whistleblowing into the working practice of the organisation. As Gutner¹⁰¹ underlines internal mechanism must be promoted, the alert must be taken seriously and the employee assured that no retaliation will follow. This concept is supported by many specialists.

« Internal whistleblowing, when institutionalized as part of an open organizational culture, is an effective and constructive control device [...] external whistleblowing is far less desirable, with unfortunate and expensive consequences for organization and whistleblower alike (Vinten, 2003) [...] what individuals and organizations have to realize is that internal whistleblowing is an effective and constructive control device. The way in which (it) is implemented within an organization is key »¹⁰².

⁹⁸ DYCK Alexander, MORSE Adair, ZINGALES Luigi, « Who blows the whistle on corporate fraud? », University Chicago, January 2007, Finance Working Paper, n°156, p.4.

⁹⁹ BERRY B., « Organizational culture: a framework and strategies for facilitating employee whistleblowing », in *Employee Responsibilities and Rights Journal*, 2004, n°16:1, p.1

¹⁰⁰ BERRY B., *op.cit.*, p.5.

¹⁰¹ GUTNER T., «Blowing whistles-And being ignored; women may be more naturally wired to expose corporate wrongdoing, but are there warnings taken as seriously as men's? » in *Business Week*, No.1374, p.107.

¹⁰² APPELBAUM Steven, MOUSSEAU Hugues, « Whistleblowing: international implications and critical case incidents », in *The Journal of American Academy of Business*, Cambridge, Sep. 2006, vol.10, n°1, pp.12-13.

But whistleblowing is not the only internal control technique, it adds to the others such as reporting, internal audits. As traditional control systems are seen in a *top-down* relation, coming from the direction, this new mechanism includes lateral and *bottom-up* interactions. The relations between different actors are thus seen in a more dynamic way. This transfer implies a redistribution of the power in the organisation. « La pragmatique du contrôle interne est ainsi a priori porteuse de transformations dans la mesure où elle investit les salariés de l'autorité morale de celui qui contrôle »¹⁰³. This in turn leads to the problematic of the legitimacy of the actors in question. Firstly, the legitimacy of the employees who now hold a form of power by denouncing internal misconduct can be questioned. Secondly, we can also question the legitimacy of the person who is supposed to exercise this power in the first place.

By promoting this practice as a key element of organisational culture, the company shows transparency and management practice which can in turn help restore public confidence in the organisation.

Alerts from within

The fact that employees have direct access to incriminating data makes them one of the most important sources of alerts. Most frauds tend « to be revealed by people who find out about it in their normal course of business and who do not have any strong disincentive to reveal it »¹⁰⁴. Dyck, Morse and Luigi (2007) have shown that the people with the weakest incentive, usually the employees, tend to reveal the information as opposed to the shortsellers who have the strongest incentives but tend not to blow the whistle as often. Following these authors, this is due to the fact that the people with less incentive are the ones who have direct access to the incriminating data.

If a person witnesses a wrongdoing in or by his organisation, three options exist: « stay silent, blow the whistle internally or with the responsible person or blow the whistle outside to the authorities or the media »¹⁰⁵. These options can be taken either in a unilateral or diachronic way. An employee should first go to his superior to expose the wrongdoing. He can give the alert alone or with the help of institutions, unions, organisational committees etc. As « it is rare that going to the media or other outside party will ever be helpful or sensible first port of call for a whistleblower »¹⁰⁶. But if no suitable measures are taken after this first alert the employee

¹⁰³ CHARREIRE PETIT Sandra, SURPLY Joëlle, « Du whistleblowing à l'américaine à l'alerte éthique à la française: enjeux et perspectives pour le gouvernement d'entreprise », in *M@n@gement*, 2008, vol.11, n°2, p.118.

¹⁰⁴ DYCK Alexander, MORSE Adair, ZINGALES Luigi, *op.cit.*, p.30.

¹⁰⁵ DEHN Guy, *op.cit.*, p.2.

¹⁰⁶ JAMES Cathy, "When the whistle blows", in *The Guardian*, 25 April 2009.

can decide to go to the media with his information. We think such disclosure to the media could be avoided if whistleblowing practice is made an integral part of the organisation's culture. If the alert is taken seriously, « it enables the organisation to put a potential problem right before it causes any real damage to it, its reputation or its stakeholders »¹⁰⁷.

When the whistleblower chooses the press

If no consequent action is taken after an internal alert, the employee might be inclined to go to the press. But going to the media can be extremely dangerous for an organisation. The consequences of which can be facing public embarrassment, scrutiny from the media and/or the government, law suits and even substantial fines.

If the employee decides to go to the media, he has to collect sufficient evidence to convince the journalist whose first reaction should be sceptical. It is also important to select the correct person to voice an alert. He has to choose the optimum media to disseminate his story. « In newspaper, almost all the fraud revelations are published in top newspaper by established journalists »¹⁰⁸. Not forgetting that the journalist can also benefit from the revelation, it is undeniable that it helps « establish their career and reputation »¹⁰⁹. Moreover, as opposed to the employee, a journalist would be unlikely to be made redundant by exposing such revelations. However, it is not a foregone conclusion that the journalist will choose to diffuse the information, he might decide not to publicize it thus enforcing the confinement of the affair. As diffusing such an allegation implies an important part of investigation before hand. Analyzing the situation takes precious time which he may not have in this new era of instant communication. However, if the media does become involved the impact of the story will certainly be increased.

The way the information is processed also implies a difference in potential costs for the journalist. If a person publicly assumes the information, the cost of diffusion is very low for him. If the information comes from an anonymous party and has not yet been made public, the journalist risks more in publishing the story. On this subject, employees are a good source of information. As we already underlined, « usually the first people to realise or suspect the wrongdoing will be those who work in or with the organisation »¹¹⁰. Such data is not always known or accessible to a journalist so having an inner spy can often be a good compromise for him.

¹⁰⁷ DEHN Guy, *op.cit.*, p.3.

¹⁰⁸ DYCK Alexander, MORSE Adair, ZINGALES Luigi, *op.cit.*, p.3.

¹⁰⁹ DYCK Alexander, MORSE Adair, ZINGALES Luigi, *op.cit.*, p.28.

¹¹⁰ DEHN Guy, *op.cit.*, p.1.

When Carpenter went to the Time magazine

To see the relation that can be built between a journalist and a whistleblower, we decided to analyse two press articles which relate the story of Shawn Carpenter who was a computer network analyst for Sandia National Laboratories in the US. He discovered that the computer system was under attack by Chinese spies. After going to his superiors without success he went with his information to the FBI which encouraged him to pursue his investigations. When his FBI contacts stopped communicating with him he chose to go with his story to the press. This case is particularly relevant as it takes place in the country where this practice first emerged and, as we previously explained, the employee first opted for an internal route before going to the media. This underlines the consequences an alert can have if it is not taken into account by the organisation.

For this case study, we applied a *Grille de Gritty*¹¹¹ on the two articles that were written in *Time Magazine* about this case. The first one was diffused in August 2005¹¹² after a series of investigations made by *Time* regarding the affair. The second, written by the same journalist, was released in February 2007¹¹³ when the court battle ended between Sandia and Carpenter, the internal whistleblower. The verdict was determined in favour of the latter.

The *Aires culturelles* of these articles are particularly interesting as they show that these articles are destined towards an American readership who thus has a certain knowledge of the institutional structures and the power in place. This is revealed by the fact that no American institutions are explained and no geographical places are situated. This contrast with the Chinese towns that are situated for the reader in the correct region of the country. The reader is also supposed to have a certain computer science background as specific terms are used to design the attacks made on the system.

In the second step of this analysis, we studied the connection that appeared between the journalist and the reader but also how the journalist talked about the whistleblower. In the first article, the pronouns used by the journalist are particularly revealing as he never uses a personal pronoun to refer to himself. He always stays under the cover of his publication stating that the whistleblower came to the *Time*, not specifically naming himself. It is therefore unclear as to whether the investigation and information was collected by the author of the article or by a group of colleagues investigating the affair. We think this way of writing shows that the journal-

¹¹¹ To develop this theory see RINGLET Gabriel, *Le mythe au milieu du village, Comprendre et analyser la presse local*, Vie Ouvrière, 1981.

¹¹² THORNBURGH Nathan, "The invasion of the Chinese Cyberspies (and the man who tried to stop them)", in *Time Magazine*, 29/08/2005.

¹¹³ THORNBURGH Nathan, "A security analyst wins big in court", in *Time Magazine*, 14/02/2007.

ist offloads a part of the responsibility onto the publication rather than assuming any accountability himself. To refer to the whistleblower, he does not use any marks of familiarity. We would rather say he creates a distance using his family name to talk about himself, otherwise to avoid any ambiguity, he chose the impersonal pronoun *he* fifty times. These observations clearly diverge with the results obtained from the second article. Here, the journalist is clearly involved in the article by giving his own opinion. This is marked by the difference of pronouns used; using *I* to give his opinion instead of staying under the cover of the generic title *Time* as he chose in the first article. In our opinion, this difference in the wording could be due to the fact that the sentence has been given by the court and that a judgement has been made in favour of Carpenter. When he talks about the whistleblower, the formulations are much more varied even if we cannot point out any major difference that could help us in this analysis.

The analysis on the *paysage qualificatif* is interesting for this subject. In the first article the qualifying nouns and adjectives regarding the whistleblower are mostly part of the positive *merveilleux* sphere followed by the *rationnel* and *combatif* sphere. In the second article, the terms referring to the whistleblower are related to the same spheres. But the journalist uses different terms to address the company, using the negative *merveilleux* and *combatif* spheres. By using these particular nouns and pronouns that are differently connoted to distinguish the actors, the journalist creates a horizon in which the actors are placed. This can influence the way the reader perceives the content. Thus, by the way the article is written, the reader may see the whistleblower in a more positive light than the company.

To support this interpretation it is also possible to refer to the places which are ideologically marked in the texts. In the beginning of the first article, the journalist does not commit himself he stays distant and presents the situation. At the end of the article, he starts giving the whistleblower's point of view, how he perceives the situation and the reaction he had from the company. By taking particularly poignant comments to close his article, the journalist chooses to leave the reader with a negative view of the company. Thus creating an indirect perception which might lead the reader to take a biased position. Once again, we could imagine that this strategy has been used to create a negative image of the company in the reader's mind. In the second article, the journalist finishes by giving his own opinion on the matter, clearly involving himself in his comments.

The position adopted by the journalist is not clearly apparent to a superficial reader. In the first article, he says a few times that he made further investigations at different moments and consulted various sources. The study of this particular case shows us that an article that appears to give a neutral view of the affair can in reality be expressed to create an impact and leave a certain opinion with the reader. However, we cannot say if this is an intentional strategy followed by the journalist. Our interpretation can also be moderated if we include another piece of data. The *Time*

magazine is the journal that decided to reward three whistleblowers in a ceremony made in honour of the "Personality of the year 2005"¹¹⁴. This information can be relevant here as it may be a sign that this publication is inclined towards or supports such practice.

Through this analysis we have shown how a story can be related by the media and how a journalist can relate a story without having an apparent and clear position from the beginning of the affair but, in this case, taking a position once the story has ended in court. The position taken by the journalist, even if it is not clearly stated, can influence the perception of public opinion and thus have consequences on the way an organisation is perceived. We think whistleblowing is an important media for the organisation and it can only benefit from integrating this practice in its culture. As Jeurissen puts it « les entreprises sont confrontées partout dans le monde à un besoin plus grand de compter sur la responsabilité de ceux qui les sent¹¹⁵. » Martin Luther King already sensed the importance of this responsibility when saying « our lives begin to end the day we become silent about things that matter¹¹⁶. » A phrase that should strike a strong cord not only for employees but for organisations as well.

¹¹⁴ LACAYO Richards, RIPLEY Amanda, « Person of the Year : Cynthia Cooper, Coleen Rowley and Sherron Watkins », in *Time Magazine*, December 22, 2002.

¹¹⁵ DIDIER Christelle, *L'alerte professionnelle en France: un outil problématique au cœur de la RSE*, available on http://dese.univ-lille.fr/spipIMG/pdf/axe_2_didier.pdf; consulted on 8/11/2009, p. 11.

¹¹⁶ LACAYO Richards, RIPLEY Amanda, *op.cit.*