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Whistleblowing

In today’s fast-paced society, businesses and governments are consistently pressured to increase their power, profit, and general success. This pressure has at times caused organizations to cut corners, intentionally evade legal compliance, and sacrifice morality in favor of capital profit and strategic advantage. When the drive to succeed results in injuries and threat to the public good, individuals have emerged from the corporate smokescreen to publicize the transgressions in apparent efforts to prevent present and future injury. At the same time, however, these whistleblowers are often criticized for abusing their privilege of access or releasing information for their own subsequent gain. Whether these “whistleblowers” are heroic is often determined by an evaluation of the results of their whistleblowing actions, but in order to determine this we must investigate his or her respective motivations and goals. Are these people motivated by monetary goals or a selfish need for public adulation? Or is it simply altruistic morality? Furthermore, in the grand scheme of things does motivation even matter? Through the cases of W. Mark Felt, Edward Snowden, and Karen Silkwood, I am going to examine each individuals’ motivation behind his or her actions and whether his or her decision to divulge sensitive information was with didactic intentions.

Webster’s Dictionary defines Whistleblowing as “the disclosure of information by a person to the public or those in authority, mismanagement, corruption, illegality, or some other wrong doing”. The information that is released by whistleblowers comes in many forms including the violation of laws, a threat to the public interest or national security, corruption, or fraud. Though there are laws and statutes set in place to regulate fraud and corruption throughout U.S. society, the majority of workers do not divulge this type of information out of fear, mistrust, or simple apathy. Those who do choose to divulge information are known as “whistleblowers”, who can then choose to bring information to the surface through internal or external means. Whistleblowing can be categorized into two different organizational sectors: public and private. The private sector is the division of the economy that is run by private individuals or groups, most commonly for enterprise or profit, including that of corporations. The public sector makes up the other portion society that is concerned with providing public services such as the military and police, transportation, education, and government care programs. Though details of the private and public sectors may not seem important to the overall ethical significance of the whistleblower, the means through which he or she chooses to reveal information plays an important role in the public reception of the whistleblower’s actions. Whistleblowers who divulge information in the private sector are likely to face retaliatory termination and legal charges (by their employer/target) at the very minimum, while Whistleblowers in the public sector are probable to face federal felony charges and or jail-time (Greenwald). This paper will examine why, even after understanding the potential consequences, persons feel the desire or obligation to become a whistleblower.

Whistleblowing has been around since the late 18th century, but it did not get an official name until the 1963 case of Otto Otopeka. The idea began on March 2, 1863 when Abraham Lincoln enacted The False Claims Act in order to “aid in the effort to root out fraud against the government… (and) to encourage private individuals who are aware of fraud being perpetrated against the government to bring such information forward” (Glazer, 48). The original act granted a $2,000 civil fine and double damages for each false claim that was submitted. Not only this but those eligible received 50% of the amount that the government recovered as a result of their cases. The act remained largely unaltered until 1943 when Congress reassessed the provisions of the statute (Hersh, 247). The changes most notably took effect in the form of a reduced incentive for people to report large-scale fraud or corruption. As a result The False Claims Act fell into almost complete disuse until 1983 when Congress, spurred by reports of widespread fraud against the government, revised the act to better accommodate the whistleblower to better provide both protection and incentive to the individual. Since then various statutes have been introduced with the goal of providing social and occupational protection to the individual. (Glazer, 55) According to philosopher Richard T. George, there are three conditions of whistleblowing that make the action morally permissible: the first condition being if any product or policy causes serious harm to the general public, the second being that the employee has made their concerns known to their superiors, and the third being if the employee has exhausted internal chain of command available within the company (Hoffman, 773). With De George’s guidelines we can more clearly define whether Felt, Snowden, and Silkwood’s actions were justified, or whether they were done in the name of personal gain.

William Mark Felt, also known as “Deep Throat”, is one of the most well-known Whistleblowers due to his involvement in the infamous Watergate scandal of the early 1970’s. Felt was the associate director of the Federal Bureau of Investigations (FBI) when he leaked confidential information of a large-scale political scandal that began with a seemingly innocuous break-in at the Democratic Party’s national committee offices at the Watergate building in Washington DC. The break-in was actually a part of a broader campaign of political spying and wire-tapping that the government, under President Nixon, attempted to cover up. Felt chose to leak information privately and anonymously to two journalists named Bob Woodward and Carl Bernstein who acted as a medium to bring the scandal into the public eye. Nixon denied all accusations and ordered the harassment of activist groups and political figures using the FBI, CIA, and IRS as an attempt to cover up the scandal. The scramble forced a series of poor judgment decisions that led to the discovery of multiple abuses of power by the Nixon administration (Tracy, 18). The information leak in turn brought about an investigation that led to the resignation of President Nixon and the indictment of 69 government employees (including top administration officials). Ultimately Nixon’s resistance to cooperation in the investigation led to a constitutional crises that created an atmosphere of cynicism and distrust in the presidency. Though Nixon believed that he was acting with the country’s best interests in mind, Felt’s involvement revealed not only blatant and country-wide violations of civil rights, but a complex conspiracy in the highest reaches of government that circumvented the freedoms of our political system. In the years following, Felt came under enormous controversy due to his position and was convicted in a criminal trial and charged for having “conspired to violate citizen’s fourth amendment rights”, but was later pardoned by Ronald Reagan (Tracy, 71). Felt then disappeared from the public eye for almost three decades while being secretly investigated by the FBI. Felt remained tight-lipped about being “Deep Throat” for thirty years until he finally came forward with his identity on a talk show in 2005. In an interview, Felt stated that at the time he acted with “what [he] felt was the right thing to do”, even in the face of presidential power (Felt, 193). An aspect I found to be very interesting about the case was Felt’s decision to keep his identity secret for so many years. This reveals that even years after the fact he was concerned about potential repercussions if he revealed his identity. He acted in the face of repression by the U.S. government and dealt with the ramifications until his death in 2008. Though Felt was doing a service to the country by exposing corruption, he was still an FBI employee, and knew that the act would be seen by many of his colleagues as a betrayal. Whatever his motives, Felt’s leaks changed the way the American public viewed its most powerful institutions. From that point on the American public would no longer simply implicitly trust the president- instead there flourished a deep culture of mistrust that continues to surround United States politics today, all because W. Mark Felt told the truth.

Edward Snowden was a former employee of the CIA who leaked information about the NSA (National Security Agency) program that was covertly collecting vast amounts of information from telephone calls, emails, and other files between American citizens. The surveillance program, known as PRISM, stores telecommunications data between American citizens on an “ongoing daily basis” including everything from e-mail, chat, videos, photos, stored data, VoIP, file transfers, video conferencing, notifications of target activity, network log-ins, and more (Greenwald). News of the program surfaced in early June 2013 when the United Kingdom newspaper *The Guardian* reported that the NSA was collecting the telephone records of tens of millions of Americans. By this time Snowden was already safely out of the country and residing in Hong Kong after deciding to give some of the classified documents to *The Guardian*. According to Snowden, he chose Hong Kong due to its “spirited commitment to free speech and the right of political dissent”, while in addition an extradition treaty exists between the two countries (Greenwald). After receiving an extradition request by U.S authorities, Snowden was not stopped from flying to Russia where he remains today under asylum in Moscow. When asked why he felt the need to leak information, Snowden replied, “I don’t want to live in a society that does these sort of things… I do not want to live in a world where everything I do and say is recorded. That is not something I am willing to support or live under” (Greenwald). Today Snowden is largely demonized by the media as a traitor to his country and the American people for both the way in which he decided to leak the information and his decision to accept asylum (from a communist country) in Moscow. Much like Felt, Snowden didn’t follow De George’s requirements of permissible whistleblowing perhaps due to the confidentiality of the information and the potential risk he undertook. Though Snowden leaked this information, it ultimately brought about the declassification of over 200 other documents by the CIA’s director James Clapper. While this can be seen as a good or a bad thing, the undeniable truth is that PRISM was government-approved program while the general public was unaware of its existence. Ideally we want to believe that everything the government does is done for the good of the people, but in both the Watergate scandal and the NSA revelation, general constitutional rights of the public were largely ignored. The perpetrators, in both cases on government orders, prioritized other goals over basic constitutional rights of free speech, general freedom, and privacy. In the case of Edward Snowden, the PRISM program was legal and authorized, yet implemented in an under-the-radar and unrestricted way. There was no power regulating it because the general public didn’t even know about its existence. I believe the magnitude and severity of the situation is what led both Felt and Snowden to reveal the corruption through external means. In an interview with *The Atlantic*, Snowden explicitly stated his mentality behind the decision. “All of our ideas, thoughts, expressions associations, who we talk to, who we meet, who we love, who we hate, all of these things are now subordinated to the policy of a few guys behind closed doors and we can’t hold them to account... we have the ability to correct this overreach and to protest unconstitutional activity that never should have begun.” (Greenwald). He chose to give up his life and family due to information that he found unsettling and “could not cope” with. Snowden is also widely referred to as a coward because he refuses to stand trial in the U.S. He wishes to return, but doesn’t admit to be at fault of the “treasonous crimes” he committed. He does understand, however, that he “will be either killed or jailed” if he returns (Greenwald). Both Felt and Snowden’s actions show bravery at minimum that a majority of Americans in the same circumstances would not show. In general people are afraid of change and are wary to go against the social norm and suffer potential repercussions. In the case of whistleblowers it could cost them their life.

An example of this was a well-publicized whistleblower and plutonium plant worker named Karen Silkwood. Silkwood worked as a metallography technician at the Cimarron plutonium plant operated by Kerr-McGee in Crescent, Oklahoma. Her daily duties included, among other things, polishing fuel rods filled with radioactive plutonium pellets. Not long after taking the job at the plant she joined the Oil, Chemical & Atomic Workers Union and soon rose to hold the position of a member of the bargaining committee. In 1974 Silkwood testified to the Atomic Energy Commission that she had found serious violations of health and safety regulations, including evidence of chemical spills, leaks, faulty fuel rods, and enough missing plutonium to make multiple nuclear weapons. She also alleged that the company had falsified past inspection records (Rashke). On November 5th, 1974, during a routine check, it was discovered that Silkwood had been exposed to over 400 times the legal limit for plutonium. She was sent home with a kit to conduct self-tests on herself, but the following morning, despite having handled no dangerous materials as part of her job that day, she tested positive once more. While Kerr-Mcgee would later claim in court that she willfully contaminated herself in an effort to make them look responsible, Silkwood remained adamant that she was deliberately contaminated as a result of her whistleblowing efforts. By November 13th, Silkwood decided that she had gathered enough evidence to go public with her claims. She arranged a meeting with a New York Times reporter and National Union representative, Drew Stephens, in Oklahoma City where she was to deliver a manila folder full of alleged health and safety violations at the Cimarron plutonium plant. She never made it to her meeting, however, as her car went off the road, skidded for several hundred yards, hitting a guardrail and plunging off the embankment. The accident was not discovered until a few hours later when Silkwood’s body was found in the wreckage by Stephens, who had been following the road to look for her. The supposed manila folders were never found nor have been brought to light since. Though there is no definitive answer as to whether or not Silkwood actually had physical evidence with her at the time of the crash, the incident did bring about investigations into the Cimarron plant. The year after Silkwood’s death Kerr-Mcgee closed the plant, partially upholding her claims (Rashke). Though the files were never found, it serves as a glaring example of the struggles one faces while trying to expose wrongdoings through the private sector.

The stories of these three whistleblowers reveal three very different factual scenarios that resulted in very different outcomes. Felt, for example, leaked information anonymously while holding a position of power in the government. Snowden as well used his privilege of access as a government employee to gather information but, rather than staying anonymous like Felt, he revealed himself and took responsibility for his actions but not before leaving the country and taking refuge outside of the United States’ jurisdiction. Silkwood, on the other hand, attempted to publicize her findings and take a stand against Kerr-McGee, eventually suffering the ultimate sacrifice as a probable consequence. If nothing else these stories reveal the dilemmas that whistleblowers face in their decision making process. It is because of issues such as these that various statutes have been put into place over the years, but there is still room for improvement. One undeniable outcome that these whistleblowers achieved, however, is the reevaluation of corruption and the protection of civil rights. In a long 1992 essay for The New York Times called “The Vietnam in Me”, Tim O’Brien wrote that he was angered and frustrated by the lack of proper response to those involved in the notorious My Lai Massacre. He writes of his frustration with the failure to hold accountable those who acted immorally, and how the actions of a few cheapened the honorable services of those who conducted themselves humanely and professionally. In a passage he writes, “I feel betrayed by a nation that so widely shrugs off barbarity, by a military judicial system that treats murderers and common soldiers as one and the same. Apparently we’re all innocent” (O’Brien). This passage speaks leaps and bounds about the corruption and exploitation that has existed in the United States government. Apparently it is acceptable for those in power to conduct themselves to a lower standard, so long as the public is not aware. The truth is that whistleblowing is a necessity in order to police both public and private officials who abuse their power and ignore the morals of the country.

I believe that the idea of whistleblowing, regardless of the motivation, is in itself a heroic act that results in an undeniable benefit to the public good. In a continuously growing society, large businesses and government have seemingly grown beyond reach of the legal system. Whistleblowers are insiders who prioritize ethics over corporate greed, and who are willing to expose themselves to potential dire consequences for the public good. Power is known to corrupt, and without whistleblowers this corruption can easily go unchecked. Over the semester we have defined heroism in many different aspects, but two traits that have always been present are bravery and self-sacrifice. These people all manifested bravery by standing for justice in the face of potential dire consequences, and composure in the face of social destruction and global scrutiny. The motives for the whistleblower may not always be clear but the obvious bravery and self-sacrifice needed for such an action are traits admirable of a hero.

Annotated Bibliography

Culp, David. "Whistleblowers: corporate anarchists or heroes? Towards a judicial perspective." *Hofstra Lab. LJ* 13 (1995): 109.

This article explores the struggle of the whistleblower through several different accounts. Inside the corporation the whistleblower is universally hated by corporate management and shunned by co-workers. This article inspects whether the legal system provides adequate protection for whistleblowers while maintaining defenses of the company against malicious attacks by resentful employees.

Dreyfus, Suelette, and Julian Assange. *Underground: tales of hacking, madness and obsession on the electronic frontier*. Canongate Books, 2012.

This book looks at the importance of hacking in an age of information and technology. It reveals a world and network of people who use technology in the form of secure, anonymous publishing in an attempt to get governments and corporations to tell the truth. Specifically I was going to be focusing on a segment of the book about Julianne Assange, the founder of Wikileaks, but elements of the book were still used in other areas.

Felt, W. Mark, and John O'Connor. *A G-man's Life: The FBI, Being" Deep Throat," and the Struggle for Honor in Washington*. PublicAffairs, 2006.

This book written by W. Mark Felt explains his struggle of keeping anonymity as “Deep Throat” and an account of his involvement in the scandal. This serves as a valuable source because it provides perspective from Felt himself on the sandal and his thought process behind his decision-making.

Glazer, Myron Peretz, and Penina Migdal Glazer. *The whistleblowers: Exposing corruption in government and industry*. Basic Books, 1989.

This book refers to a study done over sixty-four whistleblowers over a period of six years spanning from their early stages of resistance to the final judicial sentencing. The study looks at what leads people to act against explicit instruction of management, what compels them to act at great cost to themselves and their families, and whether they believe the outcome was worth the paid price.

Greenwald, Glenn, Ewen MacAskill, and Laura Poitras. "Edward Snowden: the whistleblower behind the NSA surveillance revelations." *The Guardian* 9 (2013): 2013.

This article includes interviews with Edward Snowden and his intentions behind the NSA surveillance revelations. This serves as an important source because he is one of the most commonly known whistleblowers who is facing repercussions for his actions to this day. An immediate public reaction is shown along with his immediate statements in self-defense.

Hoffman, W. Michael, and Mark S. Schwartz. "The Morality of Whistleblowing: A Commentary on Richard T. De George." *Journal of Business Ethics* 127.4 (2015): 771-781.

This journal entry serves as a means of classification to various circumstances of whistleblowing. In this journal Richard T. De George outlines what he claims to be acceptable justification for whistleblowing and whistleblowers themselves.

Hersh, Marion A. "Whistleblowers—heroes or traitors?: Individual and collective responsibility for ethical behaviour." *Annual Reviews in Control* 26.2 (2002): 243-262.

This paper looks at literature on whistleblowing in respect to ethical issues and conflicts of loyalty that it raises. It examines potential reasons for whistleblowing, the public response, its effectiveness, and the state of legal protection for the whistleblowers. It also compares similarities and differences between the treatment of whistleblowers in the former Soviet Union and the United States.

O'Brien, Tim. *The Vietnam in me*. New York Times, 1994.

This long essay published in the New York Times is written by Tim O’Brien regarding the corruption he witnessed in the Vietnam War. Majorly he focuses on the horrors of the My Lai Massacre, and how it was the actions of a select corrupt few that ultimately changed the significance of the mission for the other soldiers.

Rashke, Richard L. *The killing of Karen Silkwood: the story behind the Kerr-McGee plutonium case*. Cornell University Press, 2000.

This article explores in detail the case of Karen Silkwood and her mysterious death. It also explores in detail her upbringing and past, and the events in the years leading up to her death. This article also succeeds in recounting the numeric details of her case as well as the allegations against both her and Kerr-Mcgee.

Tracy, Kathleen. *The Watergate Scandal*. Mitchell Lane Publishers, Inc., 2007.

This book examines the struggle between the judicial system and a paranoid President in the Watergate Scandal. It also focuses on the importance of free press and the dangers of unchecked power in relation to one of the United States’ greatest Constitutional crises.

“Whistleblower.” Merriam-Webster.com. Merriam-Webster, 2015.

Web. 11 December 2015

This definition provides a thorough explanation of what a whistleblower is.