

Whistleblowing & the Tait Report

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What is whistleblowing?

- The most broadly accepted definition of whistleblowing is that of Miceli and Near: “... the disclosure by organization members (former or current) of illegal, immoral or illegitimate practices under the control of their employer, to persons or organizations that may be able to affect action.”
- Operational definitions are much narrower, focussing on specific types of wrongdoing and limiting eligibility by dictating the methods of disclosure allowed

The typical whistleblower experience

1. Individual observes wrongdoing (often ongoing or repeated)
2. Individual attempts to report using internal channels (98%)
3. If initially unsuccessful, individual tries different levels within organization
4. Gives up OR takes matter to an external authority or the media
5. Reprisal may or may not occur at any stage



Debunking the myths

- Most whistleblowers are neither saints nor malcontents
- Research suggests there is no whistleblowing type or personality: rather, whistleblowing is most strongly correlated with situational factors
 - Clear and direct evidence of wrongdoing
 - Serious or repeated wrongdoing
 - The organization perceived as being likely to correct the problem and not make a reprisal
- Most whistleblowing does not result in reprisal

Why whistleblowing is important

- In business, it has been found to be the single best way to uncover fraud
- When properly and sincerely implemented, whistleblowing mechanisms are part of a healthy “speak-up” culture which allows quick correction of individual and organizational deviance
- It can act as a deterrent and contribute to public trust
- It is usually a moral, “prosocial” act, consistent with democratic values and human rights

The Tait Report & whistleblowing

- Tait made only one reference to whistleblowing
 - Called for an independent avenue to report unethical behaviour
 - Whistleblowing may fit in theme of speaking truth to power
 - Recognized the hazards of senior public service “village life”
 - Some mixed messages
- Whistleblowing as a concept has traditionally been attacked using ethical arguments, or arguments with an ethical component
 - Esp. loyalty, maintaining internal trust, and ensuring public confidence
 - These arguments have been debunked, but still hold power

The situation on the ground today

- The ethics regime he called for appears to be in place, and legal precedents exist - but has much changed?
 - Whistleblowers still appear to face reprisals
 - Integrity Commissioner investigates relatively minor cases
 - Perverse effects of ethics regime
 - Institutional mechanisms and incentives still seem to favour reprisal and cover-up
 - Courts and PSLREB are unreliable
- Does the fox guard the henhouse?

The way forward (?)

- Gradual change in culture is happening
- Need to change the incentives
- Other players in the institutional framework need better training and protection (e.g. recipients of whistleblowing and HR)
- Leadership is key

More Info 1: A few Canadian whistleblowers

- Duncan Edmonds (1984, National Defence, security violation by minister)
- Joanna Gualtieri (1993, DFAIT, overseas accommodations)
- Allan Cutler (1996, 2004, Dept. of Public Works, Sponsorship Scandal)
- Nancy Olivieri (1996-98, Apotex, doctored drug trials)
- Dr. Shiv Chopra, Dr. Margaret Hayden, and Dr. Gerard Lambert (1998-99, Health Canada, bovine growth hormone)
- Sean Bruyeyea (2005, Veterans Affairs, veterans' benefits)
- Sylvie Therrien (2013, Employment Insurance, exposed quotas)
- Edgar Schmidt (2012, Justice Canada, failing to provide proper counsel to Parliament)

More Info 2: Typical reprisal methods

- Ostracizing
- Workplace bullying/mobbing
- Removal of work responsibilities or authority
- Loss of promotion opportunities
- Manufactured poor performance reports
- Demotion
- Threats
- Suspension
- Firing or constructive dismissal
- Blacklisting
- Assault and murder

More Info 3: Typical cover-up tactics

- Flawed and non-independent inquiries (using friendly firms or internal audit)
- Attempts to characterize the whistleblower as not in a position to know all the facts, disgruntled, a liar, unreasonable or unstable
- Destruction of evidence
- Creation of false or post-dated documents
- Collusion with other implicated individuals
- Intimidation of other employees to prevent further whistleblowing

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