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24 October 2012

Retaliation against Whistle-Blowers: No Good Deed Goes Unpunished

By [Michael McMillan, CFA](#)

Categories: [Behavioral Finance](#), [Leadership, Management & Communication Skills](#), [Standards, Ethics & Regulations \(SER\)](#)



No good deed goes unpunished. This phrase came to mind after reading the results of a 2011 National Business Ethics Survey titled “[Retaliation: When Whistleblowers Become Victims](#).” The report contains some shocking statistics:

- 45% of US workers observed wrongdoing;
- 65% of those who witnessed wrongdoing reported it;
- 22% of those who reported wrongdoing said they experienced retaliation (an increase of 46% from 2009); and
- 46% of those who observed wrongdoing but chose not to report it, cited fear of retaliation as the reason.

Employees who “blow the whistle” or report wrongdoing should be lauded, not vilified. A study conducted by the [Association of Certified Fraud Examiners](#) (ACFE) estimates that fraud costs a typical company about 5% of its revenues and that whistle-blowing is the single most common method of fraud detection. Another study shows that “[18.3% of the corporate fraud cases in large US companies between 1996 and 2004 were detected and brought forward by employees](#).” In Europe, the Middle East, and Africa, an analysis by KPMG found that 25% of fraud cases were brought forward by employees and that anonymous tipping was the primary source of detection.

Employees represent a valuable resource to companies who want to minimize fraud or wrongdoing. They should be encouraged to “say something, if they see something,” and then praised or rewarded for speaking up instead of being victimized. It wasn’t too long ago when whistle-blowers were viewed as heroes. Remember the movies *Silkwood* and *Erin Brockovich*? *Time* magazine declared 2002 “[The Year of the Whistle-Blowers](#),” and featured three whistle-blowers on the cover of its 30 December 2002 issue: [Sherron Watkins](#) (Enron), [Cynthia Cooper](#) (WorldCom) and [Coleen Rowley](#) (FBI).

In the United States, the [Whistleblower Protection Act of 1989](#) was enacted to protect federal workers who report misconduct in the government. [Section 806 of the Sarbanes-Oxley Act of 2002](#) provides protection for employees of public companies who provide evidence of fraud, and the 2010 [Dodd-Frank Wall Street Reform and Consumer Protection Act](#) required the SEC to establish a whistle-blower program that rewards “[individuals who offer high-quality original information that leads to an SEC enforcement action in which more than \\$1 million in sanctions is ordered](#).” Globally, a large number of countries have passed legislation to protect whistle-blowers, including Australia, New Zealand, the United Kingdom, South Africa, Japan, the Netherlands, Ireland, Canada, India, Germany, Switzerland, and Belgium.

Why Do Employees Become Whistle-Blowers?

Are whistle-blowers just a bunch of “crackpots” or disgruntled employees? Far from it! [Researchers who have studied whistle-blowers](#) find that most:

- have positive feelings about their jobs;
- have good job performance;
- hold professional positions;
- are highly educated;
- hold higher-level or supervisory positions;
- have worked for the company for a long time;
- work as part of a large group within the organization;
- believe that the company will be responsive to their complaints; and
- view whistle-blowing as integral to their role in the organization.

Why would people who have positive feelings about their jobs, who have good performance records, etc., risk the potential negative consequences — physical harm, online harassment, harassment at home, a demotion, a pay cut, and/or a job transfer — by reporting misconduct? It is simply because whistle-blowing, is *not* an act of disloyalty, but the ultimate manifestation of employee loyalty to the organization.

Loyalty in this context, does not mean allegiance to top management; instead it means allegiance to

the organization's mission, its goals, its value statement, and its code of conduct. In other words, whistle-blowers are acting in the best ethical interests of their organization, the public, clients, or capital markets. According to Standard IV(A) of the [Standards of Practice Handbook](#):

A member's or candidate's personal interests, as well as the interests of his or her employer, are secondary to protecting the integrity of capital markets and the interests of clients. Therefore, circumstances may arise (e.g., when an employer is engaged in illegal or unethical activity) in which members and candidates must act contrary to their employer's interests in order to comply with their duties to the market and clients. In such instances, activities that would normally violate a member's or candidate's duty to his or her employer (such as contradicting employer instructions, violating certain policies and procedures, or preserving a record by copying employer records) may be justified. Such action would be permitted only if the intent is clearly aimed at protecting clients or the integrity of the market, not for personal gain.

Researchers have found that whistle-blowing is a dynamic and complex process. First the potential whistle-blower must determine whether the observed activity is wrong (i.e., unethical, illegal, or against company policy). Then, the potential whistle-blower has to decide whether to report what he/she has observed. This is the most difficult part of the process because the following questions have to be addressed:

- How serious is the wrongdoing?
- Is reporting the wrongdoing the only the way to stop it?
- Who should the wrongdoing be reported to?
- What will be the emotional and financial costs associated with reporting the wrongdoing?
- Will there be emotional and financial support after the wrongdoing has been reported?

A recent study titled "[The Effects of Contextual and Wrongdoing Attributes on Organizational Employees' Whistleblowing Intentions Following Fraud](#)" found that employees are less likely to report fraud when: it's financial statement fraud rather than theft; the wrongdoer is aware that the potential whistle-blower has knowledge of the fraud; and others are not aware of the fraud.

How Should Companies Respond to Whistle-Blowers?

Once the whistle-blower has decided to report the wrongdoer to a supervisor or upper management, then the organization becomes involved. It is the organization's (management's) reaction to both the wrongdoing and whistle-blower that can have far-reaching and long-lasting consequences.

First the organization must decide what to do about the alleged wrongdoing (i.e., stop it or allow it to continue). Then the organization must decide what to do about the whistle-blower — ignore them, silence them, discredit them or the allegations being made, retaliate against them, or laud them.

This is one of the most critical steps in the process, because employees take cues about the consequences of whistle-blowing from the experiences of others. If employees believe that whistle-blowers are retaliated against, they will refrain from coming forward when they observe misconduct.

As a result, any future misconduct will likely continue, because employees will be reluctant to inform management about it.

So, what is the motivation behind “shooting the messenger”? Many people mistakenly believe that whistle-blowing is an act of disloyalty. Supervisors or superiors may think the whistle-blower is questioning their ability, integrity, and conduct.

How Can Employers Encourage Whistle-Blowers and Prevent Retaliation?

Retaliation is so appalling because it represents a second form of misconduct, in which the whistle-blower, who reported the initial misconduct, now becomes the victim. And, as a recent article in *Risk Management* points out, [retaliation against whistle-blowers is on the rise](#):

- In 2011, 31% of whistle-blowers experienced physical attacks on their property, versus only 4% in 2009.
- Although whistle-blowing has only increased by 12% over the past five years, retaliation has increased by 83%, which will probably drive down future reporting rates.
- In 2011, for the first time in the history of the National Business Ethics Survey, managers are not more likely to experience retaliation than nonmanagement employees, and the biggest jump in retaliation of all employee levels occurred among senior management.

There are a number of preventive as well as responsive actions that organizations can take to not only encourage whistle-blowing but also eliminate, or at least minimize, retaliation. First and foremost they need to establish a comprehensive ethics and compliance program that includes:

- [written standards on workplace ethical conduct](#);
- training on these standards;
- resources (such as an ombudsman) that employees can draw upon when they need advice about ethical issues; and
- an in-house complaint process and a confidential and anonymous means to report misconduct.

Only 2% of whistle-blowers experience retaliation in companies with these types of programs. Retaliation also decreases when employees are prepared to handle situations that could lead to violations of company ethics standards, policy, or the law, which highlights the importance of training.

It is also crucial that top as well as middle management [make ethics a top priority and exhibit ethical behavior](#). They should communicate openly with employees not only about reporting misconduct, but also about the protections afforded to those who do report. In addition, they should be educated about retaliation and trained to recognize and address it when or if it occurs. When a report of

misconduct is made, managers need to take it seriously and quickly investigate and respond to it. If the whistle-blower's claims are substantiated, the wrongdoer should be punished appropriately and the whistle-blower positively acknowledged.

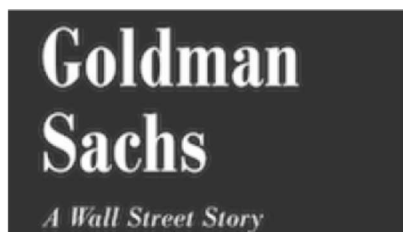
Failing to encourage whistle-blowing or to prevent retaliation can be [financially as well as culturally damaging to organization](#).

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19 comments on "Retaliation against Whistle-Blowers: No Good Deed Goes Unpunished"



[geral](#) said:

The cowardly fbi is mafia and is a sociopathic & homicidal threat to all the world.

See my recent summary of the events showing how the fbi & cia (and their operatives) have ruined the usa and threaten the world by covert illegal & murderous intel operations.

<http://sosbeevfbi.ning.com/profiles/blogs/mankind-at-war-with-self>

<http://barbarahartwellvscia.blogspot.com/2011/10/living-dead-frightful-lot.html>

Bans for my posting:

<http://sosbeevfbi.ning.com/profiles/blogs/threats-and-bans-globally-for>

25 October 2012 at 10:44

[Reply ↓](#)



Carolyn R said:

I recently reported to my employer that employees were committing thefts of property, falsifying time, and rude to customers. I quickly regretted my decision when my district manager refused to investigate, told me i have no evidence and told other employees I complained. I immediately felt the hostility from fellow coworkers who bullied me in a meeting the day after submitting the information. Distressed from the bullying, I signed out and left the worksite. Now, the employer says I voluntarily quit my job. The wrongdoers are still employed. This is suppose to be a christian non profit. I thought honesty n integrity would be appreciated. There needs to be more laws to protect the rights of whistleblowers in private sector jobs.

26 February 2013 at 07:06

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Rj said:

I am a registered nurse working in one of the State hospitals in California, I brought up issues to my supervisors because of patient safety-related issues because of the manipulation of some nurses with patient acuity scoring due to their intent to make easy overtime. My supervisors discredit my report, so I blew the whistle, hoping those whistleblower protection law will protect me. Now, from being registered nurse, I am now re-assigned in the laundry department because I was accused of "misconduct". A misconduct that should have been done to the suspicious act done by the bully nurse:(
Sad, and traumatic, but that's what you get when you blew the whistle. The union didnt even represent me, because it looks like my supervisors really did a good job damaging my credibility, and it seems like the union rep is also judging me that I was the one looking for trouble. I have a lot of evidence, but evidence is useless if nobody even bothers to look or investigate it.

26 August 2013 at 21:17

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Carol said:



I blew the whistle about a supervisor committing sexual harassment against me and my daughter . They promoted him. I filed a grievance but I was written up for insubordination...given 3 days of without pay and job threatened.. What should I do

12 September 2013 at 03:46

[Reply ↓](#)



Ryun Ridgway said:

Whatever you see or hear, KEEP YOUR MOUTH SHUT!! I was fired for whistle-blowing over 2 years ago. I had worked hard for 15 years with no problems. I lost everything- trying to right a wrong. I was awarded a very small settlement in court- BIG DEAL. I have been unable to find a job doing anything at all-dispite over 400 applications to open positions that I am more than qualified for all over the State. Keep quiet and do your job-there is NOTHING that can protect you. Sad country we live in.

24 February 2015 at 19:42

[Reply ↓](#)



Jean Aliabo said:

I do agree with you, keep your mouth shut and eyes closed. The whistleblowing that I did on July 2013 brought me in so much distress I was at one time thinking of suicide murder and thoughts of going postal due to the constant retaliation and singled out frequently. I had so many evidence to support me but even then, it had no bearing. My employer said they were doing the right thing and its not retaliation what they did to me and the focus switched from the "wrong doers" toward me the "trouble maker-not-a-team-player employee". I was even accused of being a terrorist because I mentioned the word "bomb", all taken out of context just to justify their bad behavior and treatment against me. It was like "yeah, we did what we did for somebody who is a bomber and a threat to the people, and it was the right thing to do".

Lord have mercy on their soul and I hope Satan is not going to strangulate them on their sleep!

Protection for whistleblowers? Thats not true and lawyer's wont waste their time to defend you or take your case unless you are whistleblowing for something that involves lots of money. Retaliation is bad and it ruins your life, livelihood, psyche and family. Its not worth it. For people reading this, planning to blow the whistle, dont do it, you are committing a suicide (you dont die quick but the long term effects kill you). After blowing the whistle and they starts retaliating at you, it feels like you are slowly burried into the ground as the perpetrator dump sand at you, you can hear them gossip at you, humiliate and laugh at you. And they become successful because the things they do to you are like paralytics, you even feel and see what they are doing but you become helpless you cant even move or fight.

I say it again, do not do it! Just quit in good terms beause its hard to find a job specially if you worked only with them for many years and you next potential wants to contact your supervisor...and ask "is she/he hireable or not?"... If their answer is "i dont want to make any comments"...or worst case wont even answer the phone (yes it happened to me). Now what

are you going to do?

17 December 2015 at 13:43

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Korey Austin said:

I can relate to each of these comments. The same thing happened to me working for a non profit. The entire Board of Directors wanted to sweep everything under the rug and I was the who got terminated from my job and treated as though I was the criminal and this was a “Christian Ministry” !!!! It doesn’t matter how many laws are in place for Whistleblower protections. You have to have an attorney to represent you and they all cost an enormous fee. All of the things that took place within this organization were so unreal I couldn’t even find an attorney who would believe me and take my case for wrongful termination. It has been a nightmare.

29 September 2015 at 10:00

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Anne said:

I don’t know if Michael McMillan will ever see new comments posted here since it’s an old article, but regardless thanks for writing it. I lost a job today after whistleblowing on cash embezzlement. The company policies indicated that whistleblowing was protected, appreciated and encouraged, so I felt safe and like I was doing the right thing. But then corporate did not keep me anonymous as promised and outed me to my store managers. I was treated as a troublemaker after that. Really disappointing and depressing and made me doubt my decision. So again thanks for writing this, made me feel less crappy.

15 December 2015 at 20:59

[Reply ↓](#)



Korey Austin said:

I am so very sorry to hear this Anne. I know exactly how you feel. I can relate all too well. I hope this all works out for you.

19 April 2016 at 19:31

[Reply ↓](#)



Cali said:

If I was terminated or demoted for blowing the whistle, I would immediately contact a plaintiff’s attorney specializing in employment law.

18 April 2016 at 13:38

[Reply ↓](#)



Korey Austin said:



That is easier said than done. I was not able to find anyone to represent me pro bono and I was not able to afford to pay for one considering I was terminated with no income.

19 April 2016 at 19:33

[Reply ↓](#)



Lisa said:

I was sexual harassed at a State Prison. Guards made to dress in front of inmates then laughed. I complained and retaliation set in. They banned me from visiting. The person I was visiting was assaulted so bad it caused severe damage to their eye. Nothing was done nor has anything been done. And to top it off the retaliation is still going on.

7 June 2016 at 03:22

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Meg W said:

There is a difference between being a team player and a whistleblower. Team players are people who work for the better of the group they are a part of, while a whistleblower is someone who reports unethical or illegal behavior. They may be the same when reporting the unethical or illegal behavior will benefit the group or company more than it hurts it. Christa Scharfenberg wrote

about protecting whistleblowers, "They need to know that if they speak out, that they are going to be protected. Ultimately, it is to save lives, to save money, to save the integrity of the federal government."(2007, para. 13). This is important because it illustrates how a whistleblower could be looking out for the betterment of the team and the country by exposing what they know.

References:

Scharfenberg, C. (Nov. 2007). Federal "Whistleblower" Protection System Is Anything But. Center for Investigative Reporting.

13 November 2016 at 23:44

[Reply ↓](#)



Kathryn O'Donnell said:

I am a victim of whistleblower as I reported coworkers sleeping while working overtime and provided pictures, in 10/14, as of this day 2/17 I am still fighting for my Right whether there is a statue of limitation or not, I believe that since that day it has continued with being removed from job that would of been a promotion and placed in a field office that I was asked what I did to get here?

Empolyer completely silenced me out, no more OT after 4 years of providing safety to the STATE OF NJ during storms. They have lied ignored the facts and I continually suffer with bipolar, depression, sleepless nights, discouraged, no more confidence, distressed, embarrassed as I am known as the Snitch, and yes continually write to receive no answers, I will never understand why sleeping while working overtime could be legal? I will stay strong and continue to let them know that I do still exist and not giving up, as I also was denied a promotion, however most received, including

the sleepers a promotion? Things that make you go hmmm, I just can't stop wanting an answer.....

27 February 2017 at 03:42

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Lars Bagman said:

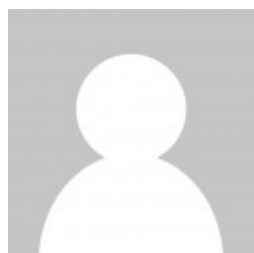
I took me over 20 years to finally prevail in a situation not unlike those outlined above. The retaliation was so pervasive that when showing up with my family at a children's Christmas party, one guy came over and said, "What are you doing here? Don't you know everybody here hates your guts!" What a greeting right before my young wife and children! I just laughed and said, "Naw, everybody here loves me." We went on to have a good time. (Like boxing, never let your opponent see you bleed, just swallow it and keep on slugging.) The end was a stalemate, 4 managers sustained so much professional damage their careers were ended and I got a buyout with early retirement.

Of course it helps if you are former military, been shot, stabbed, set on fire, had the ground blown out from under your feet, had your plane hijacked, etc. Then the hurtful words and actions in the halls of business can be taken in perspective.

The best revenge is to go on and live a happy life despite the best efforts of others to do you harm. As a young woman who worked for me put it, "Life isn't fair, that's why they make different sized bras."

29 March 2017 at 11:52

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Heather said:

I worked at a market research facility that does taste tests and they don't have a real kitchen manager that has a servsafe food handlers card she doesnt even have a food handlers card. She was not properly cleaning or sanitizing, stores food directly on the floor and she actually was using Windex on the dishes to cut the grease. I was the only one that washed my hands before putting on gloves and no one was wearing a hair net. When I said something about either using the dishwasher or 3 compartment sink with sanitizer the kitchen manager stated "why was I stressing on it not to worry about it and that "we" don't have time for sanitation!" Wtf? Are you kidding me? I asked " what happens when someone ends up sick? Then i asked the regional manager who do i turn in my resignation to. I told him why. He states dont work in the kitchen then and dont serve it, let the person responsible get in trouble if that happens. The next day I come into work and I have 6 write ups for bogus reasons but the craziest one was that I had stolen the kitchen manager shoes and sweater. Which I absolutely did not. And the other 5 write ups were supposedly for issues weeks or months ago. HOW IS THAT LEGAL OR RIGHT. I LOSE MY JOB FOR WANTING TO KEEP PEOPLE FROM GETTING SICK.

29 March 2017 at 00:19

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Adam Silfven said:

Hello,

You said that top and middle management must make ethics a priority and exhibit ethical behavior, but how is that possible when an employee has something to blow the whistle on? In my view, if management made ethics a top priority, wouldn't that remove the vast majority of reason for someone to be whistle-blowing in the first place. Employees follow the lead of the leaders, and if the top levels are exhibiting ethical behavior and appropriately hiring others who would do the same, the actions would seem to cancel each other out.

Regarding retaliation, I believe much of the same is true. While there can be rogue employees who may take out their anger or issues on a whistle-blower, if management from the top down is encouraging reporting misconduct and expressing a need for accountability, then when these issues come up, wouldn't everyone else tend to fall in line with the leaders. I think the easiest way to prevent misconduct, and therefore the need for whistle-blowing, is to have strong leadership at the top who enforce a sense of ethics on everyone below them.

1 May 2017 at 00:54

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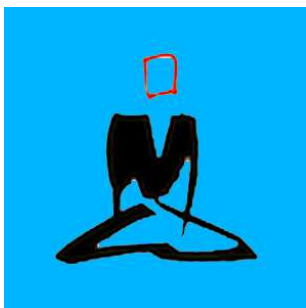
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